



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION [BA] NO. 348 OF 2026.

Sheikh Mukhtar Sheikh Nizam.

-VERSUS-

State of Maharashtra.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri P.V. Navlani, Advocate for the Applicant.

Shri A.A. Madiwale, A.P.P. for the Non-applicant/State.

CORAM : M.M. NERLIKAR, J.

DATE : APRIL 07, 2026.

Heard.

2. The applicant came to be arrested in connection with Crime No.280/2025 registered with Vasant Nagar Police Station, Yavatmal for the offence punishable under Sections 109[1], 351[2], 351[3], 296, 3[5] of the Bhartiya Nyaya Sanhita (BNS), Sections 3 and 25 of the Arms Act and Section 135 of the Maharashtra Police Act. Charge sheet came to be filed and Sections 61[2], 49, 111[2] [b] of BNS and Section 27 of the Arms Act came to be added.

3. The first information came to be lodged by one Hasan Khan Aziz Khan, alleging that on 08.08.2025 he received a phone call from his cousin brother that there was a quarrel between him and Sheikh Sahil Sheikh Vazir, and he has threatened to shoot him. Accordingly the informant along with his brothers went to the house of Sahil, however, as he was not present, all of them returned to their home. After some time Sheikh Sahil Sheikh Vazir along with his associates came to the house of the informant and called him out. Father of informant Aziz Khan came out and then the informant heard shouts from outside, therefore, he along with his wife and mother came out and saw Aziz Khan had fallen down and his clothes were filled with blood. All the accused persons were shouting and shot bullets on them. They saw Sheikh Sahil was holding the pistol in his hands. Hence, the aforesaid first information report.

4. The learned Counsel for the applicant submits that the first information report does not reflect name of the applicant, and in the entire charge sheet there is no material against him. The case of prosecution is that the applicant has provided pistol to the main accused Sk.Sahil Sk. Vazir and

accordingly bullets were fired on the date of incident. He submitted that the confessions recorded is not admissible in law. At this stage the material collected in the nature of CDR reports would not be helpful to the prosecution, as the applicant was neither present on the spot, nor he was in touch with the co-accused in respect of commission of the crime. It is submitted that even accepting that there are calls between the applicant and co-accused Sk.Sahil Sk. Vazir, the applicant cannot be connected with the present crime on the basis of those calls. He has brought to my notice that this Court has already released one of the co-accused namely Junaid Sheikh Rafiq Shekha, who has participated in the crime and in view of this when the name of the applicant does not appear in the first information report, coupled with the fact that there is no material against the applicant in the entire charge sheet, he be released on bail.

5. The learned A.P.P. vehemently opposes the application by stating that the confessional statement of co-accused Sk. Sahil Sk. Vazir was recorded by the investigating officer during investigation and it transpired that the applicant had provided pistol to him. It is submitted that there are call

records between the applicant and accused persons prior to commission of the crime and thereafter also, and thus, it cannot be said that there is no material against the applicant. There are criminal antecedents against the applicant, and therefore, he does not deserve to be released on bail.

6. I have considered the rival contentions of the parties and have gone through the contents of first information report as well as material placed on record in the nature of charge sheet. Admittedly in the first information report name of the applicant is not included, the assailants named therein are four in number. It is further to be noted that the so called confessional statement of the co-accused Sk. Sahik Sk. Vazir is not part and parcel of the charge sheet. Even otherwise, the said statement is not admissible in the eyes of law. Merely on the basis of statement recorded during investigation, the present applicant was implicated in the crime. It appears from the call detail reports that not only on the date of incident, but, much prior to that they were in touch with each other. Those calls seems to have been made in regular or ordinary course. Had it been a case that only on the date of incident, calls were made, it

would have gone against the applicant, but, prima facie call detail reports placed or collected by the investigating agency, shows that there are several calls between the applicant and other co-accused, even prior to the incident therefore, it is very difficult to connect the applicant with the present crime.

7. So far as the antecedents are concerned, admittedly it appears from the record that there are three crimes registered against the applicant at prior point of time. As regards Crime No.86/2025 is concerned, in that crime provisions of MCOC Act were invoked against the applicant, however, the learned Counsel has stated that the applicant was acquitted in the said crime. As regards another Crime No.459/2021 is concerned the same is registered for the offence punishable under Sections 302, 143, 148, 149 of the Indian Penal Code read with Sections 4 and 25 of the Arms Act. Thereafter no offence is registered against the applicant from 2021 and the present crime is registered in the year 2025, therefore, considering the fact that the last crime was committed in the year 2021, that by itself will not preclude the applicant from claiming bail. Merely applying Section 111 of the Indian Penal Code by itself is not sufficient,

in view of the fact that there is no material to connect the present applicant with the alleged crime. Thus, considering the above facts and circumstances, and that there is no clinching material against the applicant, I am inclined to grant him bail. Hence, the following order.

ORDER

- (i) Criminal Application is allowed and disposed of.
- (ii) The applicant /accused Sheikh Mukhtar Sheikh Nizam be released on regular bail in connection with Crime No.280/2025 registered with Vasant Nagar Police Station, Yavatmal for the offence punishable under Sections 109[1], 351[2], 351[3], 296, 3[5], 61[2], 49, 111 and 2[b] of the Bhartiya Nyaya Sanhita (BNS), Sections 3, 25 and 27 of the Arms Act and Section 135 of the Maharashtra Police Act on his furnishing P.R. Bond of Rs.50,000/- with two sureties in the like amount.
- (iii) The accused shall not enter within the territorial jurisdiction of Pusad, except for attending the trial on the scheduled dates, till the completion of the trial.
- (iv) The accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.

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- (v) The accused shall provide his residential address and cell number to Police Station concerned and shall not change his place of residence without prior intimation to the Investigating Agency.
- (vi) The accused shall attend each and every date of trial regularly. If he fails to attend the trial for one date, or fails to comply with the aforesaid conditions, his default would entail the State to ask for cancellation of bail.
- (vii) The above observations are prima facie in nature, and restricted for the purpose of deciding this application. The Trial Court shall not get itself influenced by said observations, during the course of trial.
- (viii) Misc. Applications, if any, are also disposed of.

JUDGE

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