



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

CRIMINAL APPLICATION [BA] NO. 365 OF 2026.

Fazil Khan Sabir Khan

-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 J.B. Kasat, Advocate for the Applicant.
Ms S.N. Thakur, A.P.P. for the Non-applicant/State.

CORAM : M.M. NERLIKAR, J.

DATE : APRIL 21, 2026.

Heard.

2. The applicant came to be arrested on 21.07.2025 in connection with Crime No.505/2025 registered with Gadge Nagar Police Station, Amravati for the offence punishable under Sections 103[1], 61[2] and 3[5] of the Bharatiya Nyaya Sanhita, 2023 (BNS).

3. The first information report came to be lodged by Abdul Rahim Abdul Kadir, alleging that on 28.06.2025 when he was on duty, he received a phone call from his nephew, who

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informed him that elder brother of informant has met with some accident/incident and he is serious. On the way to Amravati, he received another phone call by which he was informed that his brother had expired. When he saw the body of his brother, he found that his right leg was amputated and there were injuries on his stomach, chest, back, near left eye etc. and blood was oozing from said injuries. His nephew Sohail Jamil informed him that, he along with Siddique Kureshi were going to Walgaon on motorcycle, near haddi factory they found a black colour four wheeler stationed after giving dash to a tree. When they went near, they found that a two wheeler belonging to the deceased (Kalam) lying there and the deceased was being assaulted with the help of knife by the accused persons. On hearing their shout, all the accused ran away from the spot. The injured was taken to the hospital, where he expired. Hence the report.

4. The learned Counsel submits that the applicant is not involved in the crime. The statement of the so called eye witness cannot be believed for the reason that no one has noticed the incident, and therefore, dog squad was called, in

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the panchnama in column no.20 it is stated that the deceased has been assaulted by unknown persons. It is submitted that after conducting panchnama, help of dogs were taken, however, nothing was revealed, but, abruptly the first information report came to be registered against the present applicant and others. It is submitted that the eye witness is a planted eye witness and his statement cannot be believed. Another witness Mulla in his statement has stated that he gave lift to Ziauddin, however, his statement was recorded almost after two months, and therefore, the entire story of the prosecution is based on concocted narration. Though the allegations against the applicant are serious in nature, however, there is no supporting evidence to that effect, and therefore, the applicant deserves to be enlarged on bail.

6. On the other hand, the learned A.P.P. has vehemently opposed the application and submitted that initially statement of eye witness was not recorded for the reason that he was busy in medical treatment of the deceased. The said witness namely Sohail has lifted the deceased from the spot. Sohail has specifically stated that one Zian has given

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multiple blows on the person of the deceased and thereafter fled away from the spot on one motorcycle. Statement of the owner of the motorcycle was recorded, wherein he has specifically stated that he has given motorcycle to Zian and other two persons. The learned A.P.P. further submits that admittedly the owner of the motorcycle is an unknown person and therefore, it has taken some time to find out his whereabouts. Another witness Sohail Parvez Jamil has stated that Zian has given blows and at that time present applicant and one Avez Khan was present. My attention is invited to the spot panchnama in which a mobile handset was found, which was of Avez Khan, therefore, inference can be drawn that all the three accused persons were driving the vehicle and initially they had given dash, due to which leg of the deceased was amputated, thereafter, Zian has given blows to the deceased with the help of knife, and therefore, this link itself is sufficient to connect the applicant and other accused persons. It is submitted that there are 11 injuries and all are serious in nature. There is amputation of leg. Cause of death is 'Haemorrhagic shock following multiple injuries', and therefore

according to the learned A.P.P. there is ample evidence in the nature of substantial and direct evidence. She prays for rejection of the application.

7. I have heard the rival submissions of the learned Counsel for the parties. Prima facie after going through the statement of the alleged eye witness, it appears to me that while he was on his way to Maktulla Shah Dargah, he noticed that there was some accident, and therefore, he stopped the vehicle and asked Sohail to get down from the vehicle and parked the same. He noticed that his uncle was lying down and Zian was giving blows with the help of knife on the deceased Kalam. He also found that Avez Khan and Fazil were also present on the spot. At this stage, even if the version of this witness is accepted, prima facie it appears that the applicant was not attributed any role in the entire incident, and only his presence is stated. It is Zian who has given blows with the help of knife. In such circumstances, considering the role played by the applicant, and the fact that investigation is completed, charge sheet is filed, the applicant is languishing in jail since 21.07.2025, coupled with the fact that there are no

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criminal antecedents, I am inclined to grant bail to the applicant. Hence, the following order.

ORDER

- (i) Criminal Application is allowed and disposed of.
- (ii) The applicant /accused Fazil Khan Sabir Khan be released on regular bail in connection with Crime No.505/2025 registered with Gadge Nagar Police Station, Amravati for the offence punishable under Sections 103[1], 61[2] and 3[5] of the Bharatiya Nyaya Sanhita, 2023 (BNS) on his furnishing P.R. Bond of Rs.50,000/- with two sureties in the like amount.
- (iii) 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.
- (iv) 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.
- (v) The accused shall attend each and every date of trial regularly. If he fails to attend the trial for single date, or fails to comply with the aforesaid

conditions, his default would entail the State to ask for cancellation of bail.

- (vi) 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.
- (vii) Misc. Applications, if any, are also disposed of.

JUDGE

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