

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO. 379/2026
 (Kamesh Alias Chhunilal Kawale Vs. State of Maharashtra)

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Mr. A. N. Rangari, Advocate for applicant.
 Ms. S. Haider, APP for non-applicant/State.
 Mr. N. Tekade, Advocate assisting to prosecution.

CORAM: M. M. NERLIKAR, J.

DATED : 15/04/2026.

Heard.

2. By this application, the applicant is seeking regular bail in connection with Crime No.453/2025 registered with Police Station Rawanwadi, Dist. Gondia for the offence punishable under Sections 103(1), 3(5), 238 of Bharatiya Nyaya Sanhita and Sections 4, 25 of the Arms Act.

3. The brief facts of the prosecution story are that the informant lodged a report stating that the informant is the wife of deceased Vinod Deshmukh. It is alleged that on 19/08/2025 at about 3:00 p.m. her husband left the house for going towards brick-kiln. He took his Unicorn Motorcycle but he did not return home till night so informant lodged a report about missing of her husband. On 20/08/2025 at about 12:00 noon, dead body of the

husband of informant was found in the bushes of the forest beside the river near village Lambatola. On the basis of the said allegations, the First Information Report was registered against unknown persons alleging murder of her husband by assaulting him on his head and neck by means of sharp edged weapon.

4. The learned counsel for the applicant submits that the case is based on the circumstantial evidence. There are statements which shows that the applicant along with accused No1 were returning from one place in the night. However, it is submitted that these statements were recorded at a belated stage and the entire story has been cooked up by the Investigating Agency. So far as the call between the applicant and accused No.1 one is concerned, was relating to a general discussion about the incident and nothing more can be inferred from the Call Details Record. He further submits that so far as recovery is concerned, it cannot be said to be a recovery under section 23 of the Bharatiya Sakshya Adhiniyam ("BSA") as the said recovery of the iron pipe was made from the motorcycle leg guard attached to the motorcycle. The said motorcycle was found at the spot and that was brought to the Police

Station and in view of confessional statement of the applicant, the recovery was made from that motorcycle and so also of the burnt clothes found at brick-kiln. He submits that this recovery will not be helpful to the prosecution to connect the applicant with this crime. Merely on the basis of motive, the applicant cannot be kept behind bars as the prosecution has tried to bring on record the animosity between the father of the applicant and the deceased. Therefore, according to him, the prosecution has not collected sufficient material to connect the applicant with the alleged crime and he be released on bail.

5. On the other hand, the learned APP and the learned counsel assisting prosecution vehemently oppose the application and submitted that there are statements of witnesses which specifically state that the present applicant and the accused No.1 were returning from the spot of incident and the witnesses were going towards the spot of incident for searching he as the deceased was missing since evening of 19/08/2025. They submitted that the witnesses stopped the applicant and accused No.1, at that time, he found the clothes having reddish spots. The mobile of the applicant and accused No.1 were seized, wherein Agency

have recovered the conversation between both of them from Call Detail Record. According to them, the conversation itself is sufficient to infer that they were talking about the disposal of the weapon which was used in the commission of the crime. They further invited my attention to various statements which show that before two days of the incident, the applicant had purchased chili powder from one shop of Ramesh. It is supported by the postmortem report, wherein chili powder was found in the eyes of the deceased, therefore they submit that brutal murder have been committed by the applicant and accused No.1, the cause of death is head injury and there are near about 15 and therefore injuries on the deceased, the applicant does not deserve to be granted bail.

6. I have considered the rival submissions. Admittedly, it appears from the postmortem report that the cause of death is head injury and there are 15 injuries on the deceased. It is not in dispute that the deceased died due to injury Nos.1 and 2 mentioned in column No. 17 with internal damage mentioned in column No. 19. It appears from the record that the deceased went to the brickkiln in the morning for his work, however he did not

return till late evening, therefore search was conducted. Accordingly, in the midnight, the applicant and accused No.1 were seen by witnesses that they were coming from the spot of incident in the midnight and also noticed reddish spots on the clothes of the applicant and accused No.1. It is to be noted that all the statements are recorded after 10 to 20 days, after the dead body was found. The dead body was found on 20/08/2025, whereas, the statements were recorded on 31/08/2025 and some of the statements were recorded on 10/09/2025. There is no explanation as to why at belated stage, the statements were recorded. It is further to be noted that so far as the recovery is concerned, at this stage, it cannot be believed for the simple reason that the iron pipe which was recovered, was attached to the motorcycle which was brought by Police from the spot of incident and the motorcycle belongs to the deceased. It is further to be noted that there are no blood stains on the said iron pipe and it was recovered on the basis of the disclosure statement of the applicant recorded under Section 23 BSA. So far as the conversation between the applicant and accused No.1 is concerned, it is very difficult to infer

anything from the said conversation. Under such circumstances, I find that this is a fit case to grant bail as investigation is complete and charge-sheet is filed, hence the following order:-

ORDER

- (i) Criminal application is allowed and disposed of.
- (ii) The applicant/accused Kamesh Alias Chhunilal Kawale be released on bail in connection with Crime No.453/2025 registered with Police Station Rawanwadi, Dist. Gondia for the offence punishable under Sections 103(1), 3(5), 238 of Bharatiya Nyaya Sanhita and Sections 4, 25 of the Arms Act on his furnishing P.R. Bond of Rs. 25,000/- with one surety 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, also shall not tamper with the evidence.
- (iv) The accused shall provide his residential address and cell number to the concerned Police Station and shall not change his place of residence without prior intimation to the concerned Investigating Officer.
- (v) The accused shall not enter into the village Girola, Tah. Amgaon, Dist. Gondia.
- (vi) The applicant/accused shall attend each and every date of trial regularly. If he fails to attend the trial for two consecutive dates or fails to comply with the aforesaid conditions, his default would entail the State to ask for

cancellation of bail.

7. The observation of this Court are prima facie in nature and are only limited to this application. The Trial Court shall not be influenced by the aforesaid observations.

(M. M. NERLIKAR, J.)

Gohane