



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

CRIMINAL APPLICATION [BA] NO.430 OF 2026.

Althaf Khan Akram 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 A.K. Bhangde, Advocate for the Applicant.
Shri V.A. Thakare, A.P.P. for the Non-applicant /State.

CORAM : M.M. NERLIKAR, J.

DATE : APRIL 22, 2026.

Heard.

1. The applicant came to be arrested in connection with Crime No.521/2025 registered with Nagpuri Gate Police Station, Amravati City for the offence punishable under Section 118[2] of the Bharatiya Nyaya Sanhita, 2023 (BNS). Charge sheet came to be filed and Sections 103[1], 49 and 3[5] of the BNS came to be added.

3. The first information report in the matter is lodged by one Abdul Rajik Abdul Wahab, alleging that on

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20.10.2025 somebody threw fire crackers at Mustkim Pathan, and presuming that the same was thrown by Abdul Sohail, nephew of the informant, the said Mustkim Pathan was waiting for a chance to attack Abdul Sohail. On 21.10.2025, informant heard commotion and saw that Mustakin Pathan was quarelling with Abdul Sohail, and was holding a knife in his hand while sitting on the body of Sohail, till the time the informant reached to save Abdul Sohail, Mustakin Pathan stabbed Abdul Sohail with knife and fled away from the spot. Many persons had gathered there, but, as Mustakin Pathan was holding a knife, no one dared to save Abdul Sohail. The injured was taken to hospital for treatment, where he succumbed to injuries. Hence, the report.

4. The learned Counsel for the applicant submits that name of applicant is not taken by the informant, who is the eye witness to the incident. It is only after two days, that the statement of witnesses were recorded, wherein mother of the deceased has stated that there were 3-4 other persons who were saying “*maar sale ko, baki hum sab dekh lenge*”. In other statements which were recorded much after the incident

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i.e. on 03.11.2025, the role attributed to the applicant is that he stopped family members of the deceased, and therefore, the main accused Mustakin Pathan fled away from the spot. CCTV footage was collected, however, it is not clear from the said CCTV footage what role has been played by the applicant, and therefore, it is submitted that unnecessarily the applicant has been added as an accused in a serious crime of murder and therefore, prayed to be released on bail.

5. On the other hand, the learned AP.P. vehemently opposes the application by submitting that though name of the applicant does not figure in the first information report, however, immediately when statements of family members of the deceased were recorded his name was taken by the mother of the deceased. Statement of mother would show that the applicant has instigated the main accused Mustakin Pathan. Further he submitted that postmortem report shows that cause of death is due to Complications following Haemorrhagic Shock Due to Axilla Injury. Therefore, the role played by the applicant and considering the gravity of the offence, he does not deserve to be enlarged on bail.

6. I have heard the rival submissions canvassed by the learned Counsel for the parties. Admittedly in the first information report, which was registered on 22.10.2025 by the informant Abdul Rajik, who is the real uncle of the deceased, name of present applicant does not appear, and all the allegations are attributed to Mustakin Pathan. It is alleged that said Mustakin Pathan due to suspicion on deceased Sohail, that he has thrown fire crackers on him on 21.10.2025, went to the place of incident wherein Sohail was standing near Albadar Hall on road, and at that time Mustakin Pathan caught hold of the neck of Sohail and thereafter, inflicted stab wounds with the help of knife and committed murder. It appears that first information report was lodged immediately at about 7.42 a.m. on 22.10.2025. The incident had occurred in the midnight between 12 to 12.15 hours. Perusal of statement of mother, which is recorded on 24.10.2025, reveals the she has stated that 3-4 persons were instigating the main accused Mustakin Pathan to kill the victim. Further perusal of the statement of other witnesses show that they are recorded on 03.11.2025, wherein they have stated that the applicant

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along with one other person arrived on the spot of incident along with Mustakin Pathan and said Mustakin Pathan stated abusing the deceased Sohail and thereafter, he caught hold of the neck of the deceased by left hand and by right hand inflicted blow on the deceased. It is further stated that when the family members rushed towards the spot with some sword like weapon, one person who was along with Mustakin Pathan has stopped them by pelting stones on them, and the present applicant stopped mother of the deceased and helped the main accused Mustakin Pathan to flee away from the spot. Even if the statements recorded, are taken as it is, it is apparent that no overt act in assaulting the deceased has been attributed to the applicant. Admittedly the name of the applicant does not figure in the first information report, therefore, considering the over all statements, it is very difficult to gather that the applicant has played an active role in killing the deceased. Considering the nature of allegations and the material collected by the Investigating Officer coupled with the fact that investigation is over, charge sheet is filed, 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 Althaf Khan Akram Khan be released on regular bail in connection with Crime No.521/2025 registered with Nagpuri Gate Police Station, Amravati City for the offence punishable under Sections 118[2], 103[1], 49 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 enter within the territorial jurisdiction of Nagpuri Gate Police Station, Amravati 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.
- (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 single 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 influenced by said observations, during the course of trial.
- (viii) Misc. Applications, if any, are also disposed of.

JUDGE