



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

CRIMINAL APPLICATION (ABA) NO.108 OF 2026

MOHD. BADARUZZMA MOHD. ADIL

Vs.

STATE OF MAH., THRU. P.S.O., P.S., AKOT (RURAL), DIST. AKOLA
WITH

CRIMINAL APPLICATION (ABA) NO.91 OF 2026

SANJAY S/o RAMDAS BODKHE

Vs.

STATE OF MAH., THRU. P.S.O., P.S., AKOT (RURAL), DIST. AKOLA

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

Court's or Judge's orders.

Mr. Anil S. Mardikar, Senior Advocate a/b Mr. S. H. Mansuri, Advocate
for the applicant in ABA No. 108/2026

Mr. Akshay A. Naik, Senior Advocate a/b Mr. P. R. Agrawal, Advocate for the
applicant in ABA No. 91/2026

Mr. N. S. Autkar, A.P. P. for the non-applicant/State

Mr. S. V. Sirpurkar, Advocate for complainant (Assist to prosecution).

CORAM : M.W. CHANDWANI, J.

ORDER RESERVED ON : 13.03.2026.

ORDER PRONOUNCED ON : 18.03.2026

1. Both these applications arise out of the same crime and therefore, they are being disposed of by this common order.

2. The applicants in both the applications are apprehending arrest in connection with Crime No.05/2026 registered with Police Station, Akot, Dist. Akola for the offence punishable under Section 103(1) [109 as per initial FIR] r/w3(5) of the Bharatiya Nyaya Sanhita, 2023.

3. The prosecution case in a nutshell is as under :-

On 06.01.2026 at about 2 pm when deceased Hidayatullakhan Patel was reading a book in the mosque after offering Namaaz, one Ubed Patel Razik @ Kalu Patel came there and suddenly unleashed knife blows on his cheek, stomach, back, chest and private parts. Two persons named Ishtak Patel and Javed Patel brought the deceased near his house and informed his nephew Fateh Ali Khan about the assault. The deceased was immediately rushed to the hospital. When the nephew of the deceased was taking the deceased to the hospital, the deceased informed him that he has been assaulted by Ubed Patel Razik. It was also informed by the deceased that when he asked co-accused Ubed Patel the reason for the sudden assault, he informed that the applicants and other co-accused have asked him to kill the deceased. Co-accused Ubed Patel also informed the deceased that he has been guaranteed by Fazil AsifKhan and Farukh Asif Khan that they will get him acquitted in the crime. Therefore, initially the offence under Section 109, 3(5) of the BNS came to be registered. Since, the deceased succumbed to the injuries, the offence under Section 109 was converted into Section 103(1) of the BNS. It appears that co-accused Ubed Patel Razik @ Kalu has been arrested.

4. Mr. Anil Mardikar, learned Senior Counsel appearing on behalf of the applicant in ABA No 108/26 submitted that the FIR is a concocted one. According to him,

since there is a delay in lodging of the FIR, the story is concocted and by way of an afterthought, a story of dying declaration has been staged by the complainant. According to him, there was a love relationship between accused Ubed Patel and a woman belonging to the Patel community, to which the deceased had opposed and therefore, Ubed Patel assaulted the deceased. According to him, there is nothing on record to suggest that the applicants are involved in the crime. The applicants have a good reputation in the society and have a political background. Due to the recent elections in Akot Municipal Council, the relations between the applicant and deceased Hidayatullakhan were strained, inspite of belonging to the same political party. Therefore, the applicants have been falsely implicated in this crime.

5. Mr. Akshay Naik, learned Senior Counsel appearing for the applicant in ABA No. 91/26 supported the argument of Mr. Mardikar, learned Senior Counsel. He added that a news article published in the newspaper on the next day of the incident reveals the real cause of assault on the deceased, which has also been argued by the learned Senior Counsel. He also submitted that the applicants are respected persons and due to a political dispute, they have been falsely implicated in this case. He further submitted that the applicants are ready to abide by any condition imposed by this Court. Therefore, they be protected by granting anticipatory bail.

6. Learned APP for the State assisted by Mr. Sirpurkar, learned counsel for the complainant, submitted that the applicants are specifically named in the FIR. The deceased informed the complainant and other persons who helped the complainant, while he was taking the deceased to the hospital that the main accused confessed that he assaulted the deceased at the behest of the present applicants. According to him, there is no delay in lodging the FIR. The complainant firstly rushed to the hospital at Akot and thereafter, at Akola to save the life of the deceased. Ultimately, the deceased succumbed to the injuries. The FIR came to be lodged on the same night at about 2:00 am. Learned APP vehemently submitted that there are statements of the witnesses that clearly demonstrate that the consistent dying declarations were made by the deceased. The offence is serious in nature and custodial interrogation is absolutely necessary. According to him, though nothing has been found in the Polygraph test of the accused, that by itself is not a conclusive proof of innocence. In order to determine the role played by the applicants, detailed investigation is vital. Therefore, the applications be rejected.

7. Perusal of the case diary reveals that the incident had occurred at about 2.00 p.m. on 06.01.2026 when the deceased was reading a book in the mosque. At that time, accused Ubed Patel @ Kalu Patel came from behind and assaulted the deceased by means of a knife on his cheek, stomach, back, chest and private parts. It is also revealed

from the FIR that the deceased informed the complainant while he was being taken to the hospital that the applicants and other co-accused asked Ubed Patel to kill the deceased and also assured that Fazil Asif Khan and Farukh Asif Khan will get him acquitted. The case diary further reveals that there is a statement of another witness on the same lines. He has stated that when the deceased was taken to the hospital in a car, the deceased said that this witness should tell Javed that Ubed Patel had told him that he has been assaulted at the behest of the present applicants and Raju Boche and that Fazil and Farukh will get Ubed Patel acquitted. Apart from him, there are other witnesses who also gave statements which are on the same lines.

8. Thus, prima facie, there is material in the form of dying declaration against the present applicants which shows their involvement in a serious crime like murder.

9. The deceased has been brutally assaulted in broad daylight, that too in a mosque. Therefore, various angles are required to be investigated by the Investigating Officer which could be possible by custodial interrogation of the present applicants. So far as the submission of the learned Senior Counsels for the applicants that the applicants are reputed persons and there is no chance of them fleeing away from justice is concerned, as stated above, various angles are to be looked into by the Investigating Officer in such a serious

crime and therefore, custodial interrogation of the applicants would be necessary.

10. Therefore, considering the material against the applicants as well as the seriousness of the offence, the decision in the case of *Jayendra Saraswathi Swamigal .vs. State of T.N.*, reported at *(2005) 2 SCC 13* relied upon by the learned Senior Counsel Mr. Mardikar will not be helpful to the applicants for the reason that anticipatory bail cannot be granted in a serious crime like murder only on the basis of the sole ground of reasonable possibility of presence of the accused being secured for trial. The Supreme Court in the same case has also observed that the nature and seriousness of the offence, the character of the evidence and the circumstances which are peculiar to the accused are required to be seen.

11. Therefore, no case is made out for grant of the extraordinary relief of anticipatory bail to the applicants. Hence, the both applications are rejected.

(M.W. Chandwani, J.)

Diwale