

IN THE COURT OF ADDITIONAL SESSIONS JUDGE BULDHANA.
{Presided Over by A.G. Santani}

MHBU010005072025.



Session Trial No. 28/2025.

Anil Ginyandev Sawade.

V/s.

State Through : PSO, Deulgaon Raja.

ORDER BELOW EXHIBIT 03.

{Passed on 09.07.2025}

01. This is the second application for bail, moved by the accused U/s. 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (the BNSS), in this trial, which is originated from registration of Crime No. 463 of 2025, in Police Station, Deulgaon Raja, for the offences punishable U/s. 103(1), 238 read with 3(5) of the Bhratiya Nyaya Sanhita, 2023 (BNS).

02. Briefly stated, the prosecution case is that on 03.11.2024, the informant Prabhakar Kachruba Sawade reported the incident with police station, Deulgaon Raja, contending that his son namely Rameshwar (now deceased) was working at Deulgaon Raja, in Grocery Shop of one Ganesh Chavan. On 28.10.2024, as usual, he left the house on 9.00 a.m. for his job, but he did not return back till late hours. On the following day i.e. on 29.10.2024, one of the friends of Rameshwar informed that his dead body was lying at Kumbhari By-pass Road. During the gossips of Villagers, the informant revealed that the deceased was with this accused on the night of 28.10.2024 and in view of the earlier dispute of field prior to 2 years, this accused committed his murder. Accordingly, after 6 days of his death, he lodged the report. Now, by filing this application, the accused prayed for his bail on the count that the investigation is complete and this charge sheet is filed, which is also the change in the circumstances, after decision on his first application for bail. Moreover, this report is lodged only on the basis of such gossips and suspicion as regard his alleged involvement in

this crime. The statement of one Vikas Khandebharad was taken belatedly and he informed that the deceased was lastly seen with this accused. The accused is in judicial custody since 07.11.2024 and therefore, his physical custody is not required. He is also ready to abide all the conditions of bail. The APP objected this application in view of his say (Exhibit 4), as there is prima-facie case against this accused and therefore, if released on bail, he may tamper with the prosecution witnesses. His earlier bail application is already rejected and therefore, this application needs to be discarded. On the other hand, the informant by filing his say (Exhibit 6) submitted that due to some misunderstanding, he lodged this report against this accused. Further, the accused is not concerned with the demise of his son and as such, he has no objection for his bail. The informant is duly identified by his Advocate. Heard Shri. N.B. Sakhare Advocate for the accused and Ld. APP Shri. V.L. Bhatkar. Shri. Sakhare submitted that the report is belatedly lodged after 06 days of the incident and this prosecution case is based on the theory of 'last seen', which itself is a weak piece of evidence. Further, custody of this accused is no more required and even the informant did not object his release on bail. To support his submissions, he relied upon the cases of State of Orissa Vs. Brahmananda, AIR 1976 SC 2488 and on Padman Bibhar Vs. State of Odisha, Criminal Appeal of 2025, Arising Out of Special (Cri) No. 17440/2024, dtd. 21.05.2025.

03. Considering the rival submissions and the record, at the first blush, it is to be noted that bare perusal of the charge-sheet reveals that **initially**, on 29.10.2024 itself, one Santosh Sudam Khandebarad informed P.S., Deulgaon Raja as regards finding of such dead body of the deceased. Accordingly, the said information was registered U/s. 194 of the BNSS. As such, the inquest panchnama was drawn and the post-mortem report was secured. By this report, the Medical Officer opined that the death was due to asphyxia, ligature compression over neck. Later, after the identification,

his dead body was given to the informant and he reported the incident of murder of his son on 03.11.2024. Bare perusal of his report goes to show that in view of the gossip of villagers and on the information of one of his relatives, the informant came to know that on 28.10.2024 the deceased was with this accused and they were wondering in the fare. He informed that there was some field dispute in between the two, since last 02 years, and they were not on talking terms. Further, on the night of 28.10.2024, they were 'lastly seen together' and therefore, the accused murdered him. The identical apprehension and reasons are stated even in statements of the other witnesses of incident namely Sandip Prabhakar Sawade, Sangita Sandip Sawade, Ranjana Rameshwar Sawade and Sumitra Raju Valekar. Their such apprehension is being supported **only** in view of the statement of Vikas Bhanudas Khandebharad, who intimated the police that when he distributing tea in that fare, he lastly saw both of them together. However, even his statement shows that he was 'informed' about the murder of the deceased by the informant only. Thus, the entire prosecution case is based on the last seen theory **and** circumstantial evidence of the facts, which is to be established on trial. The perusal of the record shows that though the investigation applied for CDR details, till date, the same are not secured. There is delay of about 06 days in lodging of the FIR. Even, the statement of the accused, leading to the alleged discovery, requires to be appreciated on merits. Now, the investigation is complete and the charge-sheet is filed. Notably, the first bail application of the accused was rejected, mainly as at that time, the investigation was pending. This way, presently, there is the change in the circumstances prevailing earlier. Even, the informant has no objection for this bail, which would be one of the reasons to consider the release of the accused on bail. He further stated that owing to some of the misunderstanding, he lodged the report. Suffice it to say that it would be the matter of trial. I have gone through the cases, relied by the Advocate

for the accused, and I am in respectful agreement with the same. As such, no fruitful purpose would be served by continuing the accused behind the bars. However, even this being the position of record, considering gravity of the offences, allegedly committed by this accused, I feel it appropriate to impose certain conditions on his release so as to ensure a free and fair trial of this Crime. Hence, the Order:

-: ORDER :-

01. The accused namely Anil Ginyandev Sawade is ordered to be released on bail on his executing personal bond of Rs.1,00,000/- (Rs. One Lakh), with one or two local solvent surety/ies in the like amount, in this Case (for Crime No. 463/2025, registered with P.S. Deulgaon Raja, for the offences punishable U/s. 103(1), 238, 3(5) of the Bhratiya Nyaya Sanhita, 2023), subject to the conditions that-

- (i). he shall attend the trial regularly,
- (ii). he shall not tamper with the prosecution evidence in any manner,
- (iii). he shall not directly or indirectly make any attempt to contact or to influence the prosecution witnesses or to otherwise tamper with the prosecution evidence.
- (iv). he shall not indulge in any criminal activities in future,
- (v). he shall submit a list of at least three blood relatives with their detail residential addresses and also the addresses of their place of work, if any, and documentary proof of showing the correctness of the details produced by them, and
- (vi). he shall submit copies of at least two documents amongst the Passport, PAN Card, Aadhar Card, Ration Card, Electricity Bill or Voter Identity Card issued by the Election Commission of India.

02. In case of breach of any of these conditions, the prosecution will be at liberty to move the Court for cancellation of this bail.

Buldhana.
Dated : 09.07.2025.

{A.G. Santani}
Additional Sessions Judge,
Buldhana.

Certificate

“I affirm that the contents of this P.D.F. file Order are same word for word as per original Order.

Name of the Steno. :- C. N. Mahale (Grade-I)

Name of the Court :- Addl. Sessions Judge
(Court No.3), Buldana

Dictated on :- 09/07/2025

Checked on :- 09/07/2025

Date of Signature of :- 09/07/2025
Presiding Officer

Date of uploaded :- 10/07/2025