

IN THE COURT OF SESSIONS JUDGE, BULDANA.

(Presided over by Mr. R. N. Rokade)

Sessions Case No.117/2025.

(CNR : MHBU010014842025)



State of Maharashtra (Police Station, Amdapur)

Vs.

Kashiram Shivram Kusalkar

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Kashiram Shivram Kusalkar,

Aged 67 years, Occu. : Agriculturist and Labour,

R/o Harni, Tq. Chikhli, Dist. Buldana.

... Applicant/accused.

Versus

State of Maharashtra,

Through : Police Station, Amdapur,

Dist. Buldana.

... Opponent/State.

Appearance :

Shri N.B. Sakhare, Advocate for applicant/accused,

Shri V.L. Bhatkar, Public Prosecutor for opponent/State.

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Order below Exh.6.

(Dated : 11-02-2026)

1. This bail application has been filed by the applicant/accused, Kashiram Shivram Kusalkar, under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking grant of regular bail in connection with Crime No.288/2025, registered at Police Station, Amdapur, for the offence punishable under Section 103(1) of

the Bhartiya Nyaya Sanhita, 2023.

2. The prosecution case, in brief, is that the informant, Prakash Baraku Pawar, is a resident of village Harni, Taluka Chikhli, District Buldana, and resides with his family along with his brother, the deceased, namely Gajanan Baraku Pawar.

About 30 years prior to the incident, the deceased, Gajanan Pawar, had been prosecuted in a case alleging rape against the daughter of the accused, Kashiram Shivram Kusalkar. In that case, the deceased was ultimately acquitted by the Court. However, despite such acquittal, the accused continued to harbour deep-rooted enmity and resentment against the deceased and repeatedly threatened that he would not spare him alive.

According to the prosecution, on 27.08.2025 at about 10:00 p.m., after dinner, the informant and his brother Gajanan were chatting in front of the house of the deceased. The deceased informed the informant that he was going out to answer nature's call and accordingly left the house. When he did not return for a considerable time, his daughters came searching for him. They went behind the house of the accused to the place where the shed was situated. After some time, they returned in frightened state and informed the informant that they were searching for their father. They requested him to accompany them in search of their father. Accordingly, the informant accompanied both of them to search for the deceased. When they reached near the shed situated behind the house of the accused and searched for him, they found the deceased lying near a heap of stones inside the shed premises. He had sustained a severe injury on his head and was lying in a pool of blood. They attempted to lift him; however, he was not responding and had succumbed to

the injuries. Thereafter they informed the village Police Patil, who in turn, informed the Police Station on phone. After some time, the Police had arrived and conducted the spot panchanama. During the panchanama, a large blood stained stone was found lying in the nearby. It is alleged that the accused, who was residing adjacent to the house of the deceased, had developed enmity against the deceased due to the earlier case in which he was acquitted. He used to threatened the deceased that despite being acquitted, he would not spare him alive. While the deceased had gone to answer nature's call, the accused assaulted him on the head with a large stone and murdered him.

On the basis of the report lodged by the informant, the Police registered C.R. No.288/2025 against the accused at Police Station, Amdapur; and after completion of investigation, submitted charge-sheet before the Court.

3. The applicant/accused filed this application on the ground that he has been falsely implicated in the alleged offence and that there is no direct or independent evidence connecting him with the crime. There is no eye witness to the incident and the prosecution case is based only on suspicion. The statements of the witnesses are delayed, contradictory in nature and recorded from interested persons. The alleged weapon is a heavy stone weighing about 12 to 14 Kgs. Considering the age of the accused and his health condition, it is highly improbable that he would have committed the alleged act. The investigation is completed and the charge-sheet has been filed in the Court. He has been in custody since 01.09.2025. Therefore, further detention is not necessary. Hence, the accused has prayed for enlargement on bail.

4. The prosecution resisted the application by filing say (Exh.8). It is contended that the applicant/accused has committed serious offence. There is concrete evidence against the applicant/accused in the form of a disclosure statement made by him and in pursuance thereto there has been recovery of his blood stained clothes. If the applicant/accused is released on bail, he may tamper the witnesses, who are residing in the same vicinity. Therefore, considering the seriousness and gravity of the offence, the prosecution has prayed for rejection of the application.

5. Heard learned Advocate Shri N.B. Sakhare for the applicant/accused and learned Public Prosecutor Shri V.L. Bhatkar for the prosecution. Perused the bail application, say filed by the learned Public Prosecutor and the objection filed by the complainant Prakash Barku Pawar. Also perused the charge-sheet.

6. The learned Advocate for the accused urged with tenacity that it does not appeal to human credulity that the accused, who is a senior citizen, picked up an alleged stone weighing 12 to 15 Kgs. and assaulted the deceased. The delay in lodging the F.I.R. erodes the prosecution case. Though, charge is framed against the accused, yet C.A. reports have not been placed on record. The trial would take its own time. Therefore, it is not justified for pre-trial incarceration. Hence, the learned Advocate for the accused prayed that the accused may be enlarged on bail with suitable conditions.

7. I have given anxious consideration to the rival submissions and have perused the charge-sheet and accompanying material. At the stage of deciding a bail application, the Court is not

expected to conduct a detailed appreciation of evidence or hold a mini-trial. However, the Court must ascertain whether a prima facie case exists and whether continued detention is necessary having regard to the settled parameters governing grant of bail.

8. It is not in dispute that the case rests upon circumstantial evidence. The circumstances relied upon by the prosecution are : (i) the alleged motive out of past enmity between the accused and the deceased, (ii) the recovery of blood stained clothes at the instance of the accused, and (iii) the presence of the accused in the vicinity of the spot. It is pertinent to note that the post-mortem report indicates that the death was homicidal in nature due to head injury. The merits of the circumstances are matters for evidence and cannot be finally adjudicated at this interlocutory stage.

9. The defence has emphasised that there is no eye witness, the accused is a senior citizen, and the investigation is already completed. These are relevant considerations. However, the seriousness of the accusation, the nature of the evidence collected, and the existence of a prima facie chain of circumstances cannot be lost sight of. The material collected by the prosecution discloses reasonable grounds to believe that the accusation against the accused is not wholly unfounded. All the material witnesses are residing in the same vicinity. The charge is framed against the accused and the prosecution is ready to conduct the trial, as early as possible. Having regard to the nature and gravity of the offence, the prima facie material indicating motive and recovery pursuant to the disclosure made by the accused and the possibility of the accused influencing witnesses, I am of the considered view that this is not a fit case to

enlarge the accused on bail. It is clarified that the observations made herein are confined to the adjudication of the present bail application.

With this, I am inclined to pass the following order.

Order

The application (Exh.6) stands rejected.

Dated : 11-02-2026.

(R. N. Rokade)
Sessions Judge, Buldana.

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