

MHND010014232026



IN THE COURT OF ADDL. SESSIONS JUDGE-2, NANDED
AT NANDED

(Before : Shri. T.S. Solankar)

CRIMINAL BAIL APPLICATION NO. 522/2026

Sambhaji S/o Anantrao Kshirsagar

Age : 25 yrs., Occ.: Agri,

R/o. Borgaon (Telang)

Tq. & Dist. Nanded.

... APPLICANT

VERSUS

The State of Maharashtra,

Through Bhagyanagar Police Station,

District Nanded.

(CR No. 173/2026)

... RESPONDENT

Appearance:

Ld. Adv. Mr. D.K. Hande, for the applicant/accused.

Ld. Addl. PP Mr. P.V. Bulbule for respondent/State.

(A) CASE DETAILS		
1)	FIR No.	173/2026
2)	Date of FIR	04.04.2026
3)	Police Station, District and State	Bhagyanagar, Dist. Nanded. Maharashtra
4)	Sections invoked	Sections 103(1), 109, 3(5) of Bharatiya Nyaya Sanhita, 2023

5)	Maximum punishment prescribed	Death sentence or imprisonment for life.
(B) CUSTODY AND PROCEDURAL COMPLIANCE		
6)	Date of Arrest	05.04.2026
7)	Total period of custody undergone	4 months 2 days.
(C) STATUS OF TRIAL		
1)	State of proceedings (investigation/Charge-sheet/cognizance/framing of charges/trial	Investigation
2)	Total number of witnesses cited in the charge-sheet.	N.A.
3)	Number of prosecution witnesses examined.	N.A.
(D) CRIMINAL ANTECEDENTS		
1)	FIR No. & Police Station	Nil
2)	Sections	
3)	Status	---
(E) PREVIOUS BAIL APPLICATIONS		
1)	Court	Nil
2)	Case No.	--
3)	Outcome of case	--
(F) COERCIVE PROCESSES		
1)	Whether any Non-bailable warrant was issued	N.A.
2)	Whether declared a proclaimed offender	No

ORDER BELOW EXH. 1

(Date : 07.08.2026)

This is the first bail application filed by the accused i.e. applicant u/Sec. 483 of BNSS, 2023 in connection with Crime no. 173/2026 registered at Bhagyanagar Police Station, Tq. & Dist. Nanded, for the offences p/u/Secs. 103(1), 109, 3(5) of Bharatiya Nyaya Sanhita, 2023 (for short 'BNS') and Sections 4/25 and 4/27 of the Arms Act, 1959.

2. The applicant came to be arrested on 05.04.2026 on a allegation that he involved in committing murder of informant's son namely Sayed Aavez Sayed Khalil and his friend Mohd Arbaz Mohd Farukh on 04.04.2026. As per report, it is alleged that, on 04.04.2026 at about 5.00 a.m. the informant came to know from his relative that, on canal road near E-square, Nanded on account of previous rivalry, dispute has taken place between the Sayed Avez and his friends and Arjitsing Chavan and his gang members Nagesh Ladde and Sambhaji Kshirsagar i.e. applicant. It is also informed that, in order to create terror Arjitsing, Nagesh and Sambhaji have assaulted Sayed Avez and his friend Mohd. Arbaz by means of sharp weapon with intention to kill them. Therefore, they have been admitted for treatment in Government hospital, Vazirabad. There, the doctor informed Mohd. Arbaz as dead.

3. It is also alleged that, since Sayed Avez was having serious injuries, therefore, he was again referred to Government hospital, Vishnupuri in Government ambulance. When the ambulance reached near accidental ward gate and while coming

out from the ambulance at about 4.00 to 4.15 a.m. Arjitsing's brother namely Pradip Chavan and his father Gajanan Chavan and father gang associates in order to create terror assaulted Aavez by means of sharp weapon and ran away. At about 7.00 a.m. during treatment, doctors declared him dead. On this premise report was lodged.

4. Heard learned Advocate Mr. D.K. Hande for the applicant and Learned Additional Public Prosecutor, Mr. P.V. Bulbule for the State. Perused the bail application, documents, say filed by I.O. police papers, FIR bearing crime no. 172/2026 and authorities cited .

5. It is the contention of learned advocate Mr. D.K. Hande for the applicant that the only allegation against the applicant is that he assaulted deceased with slaps and fists. Apart from that, there is no role of the applicant. The role attributed to the applicant can not be equated with assault by dagger. The applicant was not involved in injuring or committing second murder in the present crime. The applicant has exercised his right of private defence. The deceased and his associates were the aggressive party. Nothing came to be recovered or discovered at the instance of the applicant. The investigation of the applicant is over. There are no antecedents of the applicant. No purpose would be served by keeping applicant behind the bars. The trial will not be started in near future. Stringent conditions may be imposed. There is *prima facie* case to release the applicant. Accordingly, prayed to release the applicant.

6. Learned Additional Public Prosecutor Mr. P.V. Bulbule, *inter alia*, while arguing refuted all the submissions made on behalf of the applicant. Ld. APP submitted that, the applicant was present on the spot. He was arrested from the spot. He played active role and his positive overt act is stated by prosecution witnesses. The applicant had previous enmity with the deceased. Bail is rule and jail is exception is not absolute and same is subject to restrictions contained in the relevant provisions regarding grant of bail. There is *prima-facie* case against the applicant. If the applicant released on bail then, firstly, there is possibility of life threat to the prosecution witnesses and, secondly, threat to the applicant from the associates of the deceased. It is not desirable to release applicant. He will create terror in the society. He is a member of the rival gang and will help the absconding accused. Mere filing of charge-sheet in heinous offences like double murder, will not give rise to claim bail as of right. Learned APP further referred police say objecting grant of bail and also the charge-sheet. Lastly, prayed to reject the bail application.

7. I heard both parties. Learned advocate for the applicant argued at great length and also cited landmark judgment in the case of **Satendra Kumar Antil Vs. C.B.I.** decided on 11.07.2022 the Supreme Court of India arising out of Special Leave Petition (Crl) No. 5191 of 2021.

8. Before delving into the discussion it is apt to highlight the parameters necessarily to be followed by the Court while deciding bail applications. There are various factors, in the matters of grant of bail as well settled by the Hon'ble Supreme

Court of India from time to time. Which can be referred as Whether there is any *prima facie* or reasonable ground to believe that the accused had committed the offence; Nature and gravity of the offences; Severity of the punishment in the event of conviction; Danger of the accused absconding or fleeing if released on bail; Character, behaviour, means, position and standing of the accused; Likelihood of the offence being repeated; Reasonable apprehension of the witnesses being tampered with; Danger, of course, of justice being thwarted by grant of bail; Danger of threats or influence on witnesses so that the witnesses could not depose the truth before the court; Character of the evidence and circumstances which are peculiar to the accused; Its impact on the society; The way and manner in which the crime was committed and Motive behind the crime. Etc.

8.1 The law in regard to grant or refusal of bail is very well settled. The court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence or evaluation of the merits of the case is not allowed as it is well settled by the Hon'ble Supreme Court of India in the case of **Niranjan Sing and anr. Vs. Prabhakar Rajaram Kharote and ors.** decided on 10.03.1980, 1980 AIR 785.

8.2 Now, adverting to the submissions, I find that, Ld. advocate much argued on there is no overt act in actual killing of the deceased Arbaz can not be accepted. The observations made in the **Ashish Yadav Vs. Yashpal** (Appeal No. 2573 of 2025 (@ Special Leave Petition (Crl.) No. 14681 of 2024) Non-Reportable,

Supreme Court of India(Justice Hon'ble Prasanna B. Varale) can be taken in to account. The relevant observations in para. No. 16 reads as under, thus.-

“16. It can also safely be said that merely because no overt act was attributed to the respondent accused in the First Information Report the same cannot be the sole consideration for grant of bail to these respondents in a serious offence under Section 302 of IPC. Time and again, it is observed by this Court that First Information Report is not an encyclopedia of facts. An FIR is a starter point to set the investigation in motion and subsequently, the investigating agency collects the necessary material in the course of investigation so as to unearth the real offenders.....”

(emphasis added)

9. Supportively, the material collected by the investigating officer goes to show that the applicant was one of the assailants. Though, it is pointed out that only role attributed to the applicant is that he assaulted the deceased Arbaz by slaps/fists. In fact, the role of the applicant though orchestrated as very minimal, however, it can not be lost sight of the fact that, when the main accused deceased Arjitsing Chavan and Nagya were assaulting deceased and Sayed Avez with daggers, that time, the applicant was also adding assault by means of slaps and blows. It means that the applicant has also acted in furtherance of common intention with main assailants.

10. Explicitly, the intention of the applicant with other co-accused can be gathered by looking at the injuries sustained by deceased i.e. multiple stab injuries to chest and abdomen. The PM report discloses as many as 42 injuries including stab and cut, inflicted.

11. Independently, learned advocate further canvassed his argument on the point that the deceased was aggressive, hence, submitted that the accused might have exercised their right of private defence. I find that admittedly, the allegations against the co-accused Arjitsing Chavan and his one of the associates are that they stabbed deceased with daggers, therefore, at this stage said defence can not aid the applicant. Moreover, it is not case of the applicant that, he was assaulted by both the deceased by means of any deadly weapons. Therefore, said submission also does not hold much force.

12. Surprisingly, at late night in between 1.10 to 4.15 a.m. co-accused carried daggers with them after watching highly celebrated *Dhurander* movie and while returning back, they committed the gruesome murder of Arbaz and caused grievous injuries to the Sayed Avez and that time the applicant actively participated in the commission of crime, therefore, aggression losses its significance when the applicant's associates carried daggers with them. At this stage, it will be very premature to settle as to who was the aggressive party when admittedly incident in question took place at midnight.

13. Clearly, the entire record demonstrates that the applicant and his associates by forceful deadly assault committed gruesome murder of Arbaz on the spot and also inflicted various deadly injuries by sharp weapon like daggers on Sayed Avez.

14. Conversely, on the same spot, the deceased and his associates also committed murder of Arjitsing Chavan. Later on,

when the brother and father of deceased Arjitsing Chavan came to know about killing of Arjitsing then they went to Civil Hospital, Vishnupuri with their gang members and by inflicting grievous injuries by means of dagger committed second murder of Sayed Avez who was then fetched there for further treatment following grievous injuries sustained in the assault of applicant and other co-accused in earlier incident. It is not a case of the applicant, that deceased Arjitsing was killed first and after few hours rival gang member Arbaz was killed.

15. Explicitly, the illegal acts of the applicant and his associates, so also, the deceased and his associates fasten the foundation of gang rivalry with intention to establish supremacy in Nanded city. For said reason, the deceased Arbaz, Sayed Avez and their associates as well as deceased Arjitsing and his gang associates, assaulted each other with daggers and at the same time Arbaz and Arjitsing were killed. Therefore, the argument that while exercising right of private defence does not appear probable from any of the angles.

16. Merely, because FIR of deceased registered after few hours that itself can not be a ground to allow bail application of the applicant. It is to be noted that when in earlier deadly assault Arbaz was killed and his associate i.e. Sayed Avez was seriously injured then certainly the family members, relatives and friends must have been under shock. Therefore, late registration of FIR arising out of same sequence of events does not appear to be fatal at this stage.

17. Relatively, the FIR bearing crime no. 172/2026 is case and FIR bearing crime no. 173/2026 is counter case, as submitted by the learned advocate for the applicant. In crime no. 172/2026, according to Ld. Advocate for the applicant and APP, stringent provisions of MCOC Act have been invoked. Therefore, it can be gathered that the deceased and his associates have involved in series of offences and on this count learned APP apprehended that there is serious risk to the life of applicant at the hands of associates of deceased in crime no. 172/2026 and to the witnesses in crime no. 173/2026.

18. Openly, this can be gathered from the manner in which the father and brother of deceased Arjitsing Chavan committed gruesome murder of Sayed Avez in Government hospital, Vishnupuri even in presence of police, security guards and other various hospital staffs even when he was in need of immediate treatment. Therefore, the imminent risk and danger as pointed out above by the Learned APP is well founded and apparent. Hence, if the applicant released on bail then it will certainly jeopardize the larger interest of the society.

19. Forcefully, learned advocate for the applicant further urged that the "bail is the rule and jail is the exception". Ld. advocate for the applicant much stressed upon the observations made in landmark judgment of **Satendra Kumar Antil Vs. C.B. I.** decided on 11.07.2022 the Supreme Court of India arising out of Special Leave Petition (Crl) No. 5191 of 2021, wherein the Hon'ble Supreme Court of India re-affirmed bail is rule and jail is exception. He further referred to para no. 68 and submitted that,

the Trial Court in particular are the guardians of angles of liberty. Accordingly, pressed to release applicant on bail by virtue of said evolved principle.

20. In respect of this submission, I must mention here recent judgment of the Hon'ble the Supreme Court of India rendered in the case of **Sheikh Mehmood Vs. Union Territory of Jammu and Kashmir and ors.** decided on 01.06.2026, wherein, the Hon'ble the Supreme Court of India in para no. 31 of said judgment observed, thus :-

“ 31 Evidence on record before the Sessions Court till now has been noticed by us. “Bail is the rule and jail is an exception”, although is a cardinal principle of bail jurisprudence in India, it is not an absolute rule. The rule is sort of a guiding principle that should be kept in mind along with the facts of each case and statutory restrictions, if any, while considering a prayer for bail. In relation to offences such as the one under consideration, murder and conspiracy are serious offences. Section 437(1) of the CrPC bars grant of bail if reasonable grounds exist that the accused has committed an offence which is punishable with either death or life imprisonment. The cardinal rule has to be balanced with factors like prima facie case, gravity of offence, nature of evidence, antecedents, differentiation of roles, parity, delay in conclusion of trial, age of the accused, medical grounds, etc. However, bail could be declined if the offence is heinous and premeditated, there is grave apprehension of the witnesses being influenced or the evidence being tampered, a possibility of the accused absconding should he be granted bail and thereby evading trial, etc”.

(emphasis added)

Therefore, the submission of Ld. advocate cannot accepted.

21. Impressively, Learned advocate for the applicant pointed out that the investigation of present accused has completed and charge-sheet has been filed. I find that the filing or

completion of a charge-sheet does not give an absolute right to release on regular bail.

22. Clearly, in my considered view, the material produced before the Court clearly demonstrates applicant's presence on the spot, his active participation in the commission of murder of Arbaz and attempt to kill Sayed Avez coupled with positive overt acts. The material further boost the story of prosecution that the applicant shared common intention with other co-accused. The gang rivalry reflects from the material collected during the investigation. The deceased was killed in order to establish supremacy in the gang war.

23. Strongly, the statements of police officers namely Naresh Keshav Wadewale, Gajanan Digambar Kide, Vishal Prabhakar Rao Malve, Keshav Tambule, Anandrao Rathod point out applicant's presence on the spot of incident. Further, the statement of eye witness Shaikh Shahrukh @ Kabutar, Shaikh Ubed @ Shaikh Azgar and Saising @ Sailala Dipaksing Gaherwar supports actual participation of applicant in commission of murder and injuring Sayed Avez. Further, the statement of witness Sachin Jadhav, Mayur Suresh Tiwari, Mohd. Iliyas Khan @ Kala Illu Isamil Khan support the injuries sustained by Sayed Avez in the assault and killing by father and brother of Arjitsing. Therefore, there exist *prima-facie* case against the applicant showing his complicity in the crime.

24. Legally, considering over all material against the applicant, I find that, possibility of repeating the crime, if the

applicant released on bail can not be ruled out. Further, apprehension of threatening the informant and prosecution witnesses, assisting the absconding accused, risking the life of applicant himself from the associates of the deceased and fleeing from the process of justice cannot ruled out. Therefore, I am of the considered view, that, in such gang rivalry case when interest of society at large is at stake therefore, the applicant is not entitled for bail. Hence, I proceed to pass following order.-

ORDER

1. Bail application stands rejected.
2. Inform concern police station accordingly.
- 3 Transmit via e-mail a soft copy of this order to the accused through the Superintendent of Jail, Nanded.
4. In above terms application is disposed off.

(Pronounced, typed on Court computer and dictated in open Court).

Date :- 07.08.2026

(T.S. Solankar)
Addl. Sessions Judge-2,
Nanded.

Certificate

I affirm that the contents of this P.D.F. file Judgment are same word to word, as per the original judgment.

Name of Stenographer	:	Muley S.M. Steno Grade-1
Court Name	:	District Judge-2 and Addl. Sessions Judge, Nanded.
Date of Order/Judgment	:	07.08.2026
Judgment signed by Presiding officer	:	07.08.2026
Judgment uploaded on	:	07.08.2026

Visit ecourts.gov.in for updates or download mobile app “eCourts Services” from Android or iOS