

MHND010023362025 	<u>IN THE COURT OF ADDITIONAL SESSIONS JUDGE-2, NANDED</u> <u>SESSIONS CASE NO. 153/2025</u> State of Maharashtra -Vs- Shaikh Juned Shaikh Jafar +1
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ORDER BELOW EXH.5

The accused No.2/applicant has filed this application for grant of bail as per section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 in Crime No. 170/2025 of Vimantal Police Station Dist. Nanded for the offence punishable U/s. 103, 3(5) of the Bharatiya Nyaya Sanhita, 2023 ('BNS' in short).

2. Applicant by this application has contended that he is labour and karta of family. He is innocent and is falsely involved in the said crime. He is not habitual offender. The charges leveled against him is false and futile. He is ready to abide the condition imposed on him. So, he has prayed that he be released on bail.

3. The prosecution has contested this application by filing say vide (Exh.8). It is submitted that the offence is serious in nature. There is *prima facie* sufficient material against the present applicant. The weapon used in the crime is recovered at his instance. There is active participation of the applicant in the crime. So, it is prayed to reject the application.

4. The informant has appeared and has contested this application by filing affidavit vide Exh. 7. He has prayed that, considering the gravity of the offence and the fact that if applicant/accused No. 2 is released on bail he is likely to pressurize the informant and witness, the application be rejected.

5. Heard Ld. Adv. Mr. Dhankot for the applicant. He argued on the line of his contentions in the application. It is argued that from the allegations in the report it can be seen that the role attributed of the present accused is only that he has caught hold hands of Ismail. Whereas, co-accused had given him wooden blow on his head. So, considering the alleged role attributed to the accused No.2, the application be allowed. Also, trial will take it's own time. So, it is prayed that accused No. 2 be released on bail.

6. *Per contra* Ld. APP Smt. Battula argued that, there is sufficient material to show direct involvement of the applicant in the crime. There are eye witnesses who have seen the present accused and co-accused while assaulting the victim. So, role of the present accused cannot be bifurcated at this stage So, she argued that there is sufficient material on record to show involvement of the accused in the crime.

7. Gone through the report. The report is lodged by Shaikh Javed who is the brother of victim. It is alleged that on 30.04.2025 at about 11.00 to 11.05 p.m. at Aman colony, Noori chowk, bypass road present accused and co-accused caught hold hands of brother of informant i.e. victim and co-accused assaulted victim with wooden log and committed his murder. Hence, the report.

8. The main ground on which the accused is claiming bail is that no overt act is attributed to him and there are only allegations of holding hand of victim against him. On this point from the report and statement of eye witnesses Shaikh Nasreen, Shaikh Ibrahim and other it can be *prima facie* seen that the present accused No. 2 was present on the spot along with accused No. 1. Also, the accused No. 2 has caught hold hands of victim so that accused No. 1 could assault the victim with wooden log on his head. So, *prima facie* direct involvement of the applicant can be seen.

9. The report and statement of witnesses *prima facie* shows direct involvement and active participation of the present accused in the crime. It is the case of prosecution that both accused infurtherance of their common intention have committed murder of victim. So, at this stage role of the present accused No. 2 cannot be bifurcated with accused No. 1. Per contra, there is sufficient material on record to show presence of accused No. 2 on spot and his active participation in the crime.

10. The informant has contested this application mainly on the ground that accused is likely to pressurize him and witnesses if released on bail. Considering the fact that, trial is yet to commence the apprehension of the informant is justified. Moreover *prima facie* at this stage there is sufficient material to show the direct involvement of the applicant in the crime. So, it would not be justified to consider the request of the applicant. Also considering the fact that the punishment prescribed under Section 103(1) of BNS Act is death sentence or imprisonment for life, it will not be justified to allow the application. So, I proceed to pass following order.

ORDER

The application is rejected.

sd/-

(R.M. Shinde)

Additional Sessions Judge-2
Nanded.

Date :- 31.03.2026

CERTIFICATE

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

Name of the Stenographer : Muley S.M.

Court Name : Add. Sessions Judge -2, Nanded

Date of Order : 31.03.2026

Order signed by the

Presiding Officer on : 31.03.2026

Order uploaded on : 01.04.2026