

Order below Exh. 2 in Sessions Case no. 224/2025.
(The State of Maharashtra Vs. Somnath Hiranman Zinjar.)

1. Vide present application accused **Somnath Hiranman Zinjar**, seeks release on bail, in connection with C.R. no. **677/2025** under sections 103(1) of the Bharatiya Nyaya Sanhita, 2023 and sections 3(2)(va) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, registered at **Taluka Police Station, Malegaon**, Dist. Nashik.

2. Ld. Advocate for the applicant submits that this is a first bail application, after Charge-sheet been filed, as the previous bail application being Cri. Bail Appln. no. 960/2025, was rejected on 06.11.25, as investigation being pending and Charge-sheet to be filed. It is submitted that as investigation stands completed and Charge-sheet been filed on 10.11.25 and committed to the Sessions Court, hence there being change in circumstances, hence this bail application.

3. Also submitted that occurrence is allegedly dated 12.09.25 but the FIR is filed on 13.09.25, by the deceased's mother. Also submitted that there is a statement of witness Vijay Mali, that till 07:15 p.m. accused and victim were playing Ludo game alongwith the said witness, at his place; as against this the complainant states that accused took the victim alongwith him at 07:30 p.m. from victim's house, therefore there is contradiction in the time stated. Further stated that this witness Vijay Mali has stuck up to his version even in his statement recorded under section 183 of the Bhartiya Nagrik Suraksha

Sanhita, 2023.

4. Further contended that there is no direct evidence against this accused and the entire prosecution case rests on circumstantial evidence. Also submitted that complainant has developed a false story to show of motive, about the deceased having damaged accused's motor-cycle and that there were quarrels between them, on account of reimbursing the motor-cycle repairing amount. Also submitted that there were no past quarrels or enmity, therefore accused has no reason, no motive to commit such act.

5. Further submitted that there are no boundary-walls to the said Well therefore, it would be a case of accidental fall, due to darkness, but a false FIR is lodged. It is submitted that therefore last-seen together theory also becomes highly doubtful, even for the reason of there being no eye-witness or any direct evidence.

6. Further submitted that the post-mortem does not reveal any injury on victim's head, no sign of strangulation or neck throttling, report about death due to drowning, thus it cannot be a case of murder. It is contended that if at all accused would have committed the act, he would have fled away, but was found at his house.

7. Further submitted that the section of the Special Act, has been invoked, merely because the victim belongs to a

particular caste or community. It is submitted that the FIR does not disclose that such incidence has occurred for the reason of victim belongs to any particular caste or community. It is contended that thus Special Act has been merely technically invoked.

8. Further submitted that investigation is now completed and Charge-sheet is filed, accused is under arrest since 13.09.25, trial shall take some time to conclude, however, for want of any evidence against him, it would be pre-trial punishment to the accused, therefore is required to be released on bail. Accordingly, seeks release on bail.

9. Bail application is resisted by filing police say at Exh. 4 and the learned APP vehemently the victim Samadhan Mali was riding the accused's motor-cycle and damaged its mirror, but could not pay its repair charges, therefore accused was annoyed on the victim Samadhan Mali. It is contended that for these reasons accused committed the murder of the victim Samadhan by pushing him in the Well situated in the accused's fields.

10. Further submitted that victim's death being homicidal is not in dispute. Also submitted that there is statement of witness Vijay Mali about the accused been last seen with the deceased Samadhan Mali. Further submitted deceased was a expert swimmer, therefore there was no possibility of his death to be because of drowning.

11. Further submitted that the material witnesses are from the same village, therefore if accused is released on bail, possibility of pressuring the complainant and witnesses, tampering the evidence and hampering trial, cannot be ruled out. Also submitted that filing of Charge-sheet is mere camouflage change in circumstances. Accordingly, resisted the bail application.

12. Bail application is resisted by the complainant by filing objection at Exh. 7 and therein contending that accused committed Samadhan Mali's murder, being annoyed as Samadhan had damaged the glass of accused's motor-cycle, but did not pay its repairing charges. Further adopting the apprehensions raised, bail application is resisted.

13. Upon perusing the bail application, copy of Charge-sheet filed, the objections filed and hearing the Ld. Advocate for the accused as well as the informant and also the Ld. APP, it appears that on 12.09.25, at about 07:30 p.m. accused had been to the victim's house, took the victim Samadhan alongwith him under pretext of tying the cattles. It appears that as victim Samadhan did not return home, even after considerable time, therefore he was searched, but he could not be found. Complainant made a mobile phone call to the accused at about midnight, but accused avoided the phone call. As Samadhan could not be found till 4:00 a.m., therefore complainant's relatives reached accused's house called him, accused pointed out victim Samadhan's slippers to be in his well. Thus, prima-

facie inspite of there being no direct evidence, circumstances are against this accused.

14. Further, there is statement of an witness of this accused and the victim Samadhan playing the game 'Ludo' till about 07:15 p.m. Further, as complaint is that this accused took the victim from his house at about 07:30 p.m., also prima-facie goes against this accused.

15. The fact that cause of death is shown to be drowning, or that no injury is seen on the deceased's body, shall be a matter for detailed consideration at trial. Drowning can be due to a person been pushed or thrown in a well/river/lake, etc.; similarly, it can also be due to a person accidentally falling in such waters; or it even can be suicidal. Therefore, causes of drowning are multiple. A boy taken from his house by the accused is found dead in the accused's well. Indeed, occurrence is serious.

16. No doubt, investigation appears to be completed, as Charge-sheet appears to be filed. But, as most of the evidence being circumstantial in nature, material witnesses being from the same village as that of this accused, evidence of material witness yet to be recorded, at trial, a teen boy having lost his life, thus, apprehensions raised by the Ld. APP cannot be ruled out. Further, mere filing of Charge-sheet cannot be an ipso-facto ground for release on bail; gravity of the offence shall also be material aspect, for bail consideration. Thus, for the reasons

aforesaid, it appears that accused has not made out any case for being released on bail. Hence, the following order.

ORDER

Bail Application Exh. 2 stands rejected.

(Y. H. Ameta)

Additional Sessions Judge,
Malegaon.

Date : 10.12.2025