



Sessions Case No.434/2025

CNR No.MHPU01-008603-2025

State of Maharashtra

Through Chatushrungi Police Station

V/s.

Shubham Mahendra Tupe & Ors.

ORAL ORDER BELOW EXH.17

This is an application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short BNSS) for regular bail.

2. I have Ld. Counsel for the applicant/accused No.2 and Ld. A.P.P. Perused the charge-sheet.

3. Briefly stated the prosecution case against the accused is that the accused No.1 was having dispute with his uncle over some property and on 08/02/2025, the accused No.1, 2 and 3 in furtherance of their common intention have killed the uncle. The uncle of the accused No.1 was going to bring milk in the morning and the accused No.3 was monitoring his movements and he informed on mobile to the accused Nos.1 and 2 then the accused Nos.1 and 2 came on two-wheeler which was driven by the applicant/accused, the applicant/accused gave dash of two-wheeler to the deceased and then accused No.1 by using sharp weapon assaulted and killed the deceased. The incident was recorded in CCTV on the spot. The three accused were arrested. The applicant/accused was arrested on 08/02/2025 and he is in custody since then.

4. As per the applicant/accused he has been falsely implicated in the offence. He has not committed any offence under Sections 103, 238, 3(5) of the BNS, Sections 37(1) r/w Section 135 of the Maharashtra Police Act and Section 4(25) of the Arms Act. His role is limited and secondary distinguishable from the act of the principal accused who has carried out actual assault and allegations against him are only riding the motorcycle to facilitate the main accused to flee away from the spot. There are no allegations against him in causing the injuries. He had no motive to commit the crime. The case of the prosecution is based on the circumstantial evidence including CCTV footage and the statements of some witnesses. His mere presence cannot link him to the offence. He cannot be said to have common intention with the accused No.1 only by driving the motorcycle. The accused No.3 has been granted bail by the Hon'ble High Court. The investigation is complete. Charge-sheet has been filed. He is in custody since fourteen months. He is permanent resident of the address given. He is ready to abide by any conditions and co-operate in trial, therefore, bail may be granted.

5. Ld. Counsel for the applicant/accused reiterated the grounds and also referred to the documents in the charge-sheet.

6. On the other hand, Ld. A.P.P. vehemently opposed the application and submitted that the role of this accused and accused No.3 is different. Allegations against accused No.3 are making phone call informing the movements of the deceased, but this accused has actually taken the accused No.1 on the two-wheeler, gave dash to the deceased and then accused No.1 killed the

deceased. All these activities are visible in the CCTV footage. There are statements of the witnesses against this accused. Postmortem report shows it is homicidal death. There is enough material against this accused which shows his active participation without which the murder could not be committed by the accused No.1.

7. Perusal of the charge-sheet prima facie supports the arguments of Ld. A.P.P. There are statements of witnesses, CCTV footage also indicates participation of this accused and after considering the charge-sheet, this Court has already framed the charge against the accused persons. The case is now for the evidence of the prosecution. The role of this accused cannot be compared with the accused No.3. This accused was indeed present on the spot. He has taken the accused No.1 to the spot. He gave dash to the deceased and then they ran away. Therefore, considering the role of this accused, his participation in the crime and also now, the trial is at the stage of examining of prosecution witness, in such serious crime which prescribe capital punishment, the application is untenable. Hence, I pass following order :

ORDER

The application is hereby rejected.

(Dictated and pronounced in Open Court)

Pune.
Date : 29/05/2026

(P. Y. Ladekar)
Additional Sessions Judge, Pune.

CERTIFICATE

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

Court Name	:	P. Y. Ladekar, District Judge – 2 and Additional Sessions Judge, Pune.
Name of Steno	:	Abhishek Arun Gite (Stenographer Grade - I)
Date of Order	:	29/05/2026
Order signed by Presiding Officer on	:	29/05/2026
Order PDF and Uploaded on	:	29/05/2026