

MHTH060009882026



Sessions Case No. 145/2026 (Exh. 35)

The State of Maharashtra.
(Kalyan Taluka Police Station)

V/s.

Pankaj Dilip Jadhav

ORDER BELOW EXH.35

This is an application filed under Section 483 of the Bhartiya Nagrik Suraksha Sanhita, 2023 for the offence punishable under sections 103(1), 189(2), 191(2), 191(3), 190, 61(2), 352, 115(2), 249 of the Bharatiya Nyaya Sanhita and under Section 37(1), 37(3), 135 of the Maharashtra Police Act, vide CR No.689/2025, registered at Kalyan Taluka Police Station. The maximum punishment is imprisonment for life. The applicant is arrested on 31/1/2026. He is behind the bars for almost 6 months. Investigation is complete and charge-sheet is filed. Applicant has not filed affidavit as per directions in *Zeba Khan Versus State of UP, Criminal Appeal No.825/2026*.

2) This is second bail application. The first bail application as rejected before the chare-sheet as investigation is in progress. It is argued that name of the applicant is not mentioned in the FIR. The FIR is given on the next day. It is argued that applicant was at home when he was picked up by the police. He is the first person to be arrested. It is argued that he was illegally detained by the police. It is argued that as per the FIR, the main allegations are against four accused. Their names are specifically mentioned in the FIR. It is argued that if CDR is checked, it is seen that location of the applicant is seen at the same place during the period of entire incident. It is argued that a mobile phone, sim card and bike is recovered from the applicant. It is argued that the test identification parade is conducted after considerable delay.

3) Ld. Advocate has referred to the postmortem noted and argued that there are only two stabbing injuries to the vital organs. It is argued that this applicant is not concerned with the previous quarrel at bullock cart race. He has no intention or motive to commit this offence. It is argued that there are no antecedents. The applicant works as an Internet Provider. Ld. Advocate has argued that since witnesses and applicant resides in the same area, studied in the same school, it is but natural to identify him at test identification parade. It is argued that the applicant is the only bread earner. Ld. Advocate has argued that there are material contradictions in the FIR and supplementary statement.

4) Ld. Advocate has relied on the case laws - *(i) Ravi Kumar @ Amit Versus The State (NCT) of Delhi, Bail Application No.2386/2021. (ii) Shankar Versus State of Haryana, CRM-M-31610-2025 (O&M). (The case law is not in proper page forming) (iii) Amar Bahadur Yadav Versus State of U.P, Criminal Misc. Bail Application No.11691 of 2023. (iv) Gabbar @ Satyendra Pal Versus State of U.P, Criminal Misc. Bail Application No.19833 of 2023.*

and argued that considering the ratio, only on the basis of vague allegations applicant cannot be incarcerated. It is argued that it may take time to conduct the trial It is argued that considering that there is not a single piece of evidence against the present applicant, he be released on bail.

5) Ld. APP has argued that the alleged incident allegedly occurred in the presence of witnesses. There are more than 7-8 eye witnesses. The witnesses have identified the applicant in the test identification parade. The weapons are recovered from the co-

accused. They were all forming unlawful assembly and being members of unlawful assembly are responsible for the alleged crime. It is argued that offence under Section 103 of the BNS is registered against the applicant. The punishment is capital punishment or imprisonment for life. It is argued that active participation of the applicant is seen. It is argued that the parity is not applicable. It is argued that 2 co-accused are released on bail because they had not participated in the offence. It is argued that their only role is after the alleged incident, they provided the vehicles or concealed the vehicles. It is argued that the muddemal is received. The prosecution is ready to conduct the trial. The offence is very serious. Hence, application be rejected.

6) Heard both the learned advocates at length. Perused application, say of informant and the charge-sheet.

7) On perusal of the FIR, prima facie it is seen that FIR is given by informant who is an eye witness to the incident. The sum and substance of the FIR is, on 28/11/2025 there was a bullock cart race at Umberwade. At the time of race a quarrel occurred between witness Ajinkya and co-accused Vishal Mirkute and his friends. He informed the deceased. Till the deceased reached the spot, everyone had disbursed. Thereafter, at about 7.00 p.m. deceased, the informant along with witnesses Ajinkya, Aakash and other eye witness Dilip Shelar were at Sai Milan Hotel. Witness Ajinkya saw that Vishal Mirkute & his friends approaching towards the hotel. He alerted the deceased and himself ran away riding on the scooty along with witness Aakash.

8) Prima facie, as per the FIR the informant has stated that a gang of 8-10 people along with Kalpesh, Suraj, Kamlakar, Vishal came

to the hotel. They were carrying knife, sharp edge weapons, etc. They also used broken glasses of a bottle and wooden sticks. Prima facie, it is seen that they attacked deceased Kiran. The other people damaged the furniture in the hotel and were creating ruckus and terror.

9) Prima facie, it is seen that deceased Kiran tried to run inside the hotel and save himself. However, he was followed by 4 accused named in the FIR and was stabbed with sharp weapons and hit by other weapons. Prima facie, it is seen that he was taken to the hospital, however, declared dead on arrival.

10) On perusal of the charge-sheet, prima facie, it is seen that after the quarrel at bullock cart race, with witness Ajinkya, accused Vishal collected 20-25 friends. Prima facie, it is seen that he knew exact location where he would find Ajinkya and may be deceased Kiran. Prima facie, it is seen that co-accused Kiran had reached to the bullock cart race, however, Vishal and his friends had already left. Prima facie, it is seen that co-accused Vishal and his friends came to hotel Sai Milan with common intention and clear object to cause harm. Ajinkya after seeing the lot, carrying sticks and other weapons fled along with witness Aakash.

11) Prima facie, it is seen that after these people reached to the hotel, their intention was clear. Though informant Pondekar and witness Dilip Shelar were present, no one harmed them. They were left unscathed. Co-accused Vishal, Kamlakar, Kalpesh Rohane and Suraj Tamhane directly rushed to deceased Kiran. On perusal of the statement of wife of Kiran, it is seen that co-accused Suraj Tamhane and Kalpesh Rohane had old score to settle as they had previous quarrel with deceased Kiran on civil contract. Prima facie, as per account of eye witnesses, co-accused Kamlakar Tembhe stabbed in the

stomach, co-accused Vishal assaulted with weapon in his hand on the head, Kalpesh hit with a stick and broken bottle and Suraj stabbed in the back with sharp weapon, to the deceased. Prima facie, it is seen that the injuries are to the vital part of body. The stabbing injuries punctured internal organs resulting in the heavy blood loss and puncture of the internal organs resulting in the death of Kiran.

12) Prima facie, it is seen that at the same time the others were creating havoc by damaging the furniture and windows of the hotel. Prima facie, it is seen everyone came with clear intention, common object and previous plan. The plan resulted into the death of Kiran Ghorad.

13) Ld. Advocate for the applicant argued that the death is caused due to the injuries inflicted by 4 accused. It is argued that role of present applicant is unclear. It is argued that no specific role is given to him. Further, no weapon is recovered from him. She has relied on the case laws wherein scope of Section 149 of BNSS is discussed.

14) Prima facie, applicant is arraigned as an accused as a member of unlawful assembly. Prima facie, the arguments of Ld. Advocate for the applicant regarding lesser role and false implication is not sustainable. Prima facie, there are more than 7 to 8 witnesses who have witnessed a group of 20-25 people creating havoc in the Sai Milan Hotel, the spot of incident and also leaving the spot. Prima facie, the deceased Kiran may have enmity towards accused to implicate them. But the informant Pondekar and Dilip Shelar have no such enmity to implicate unknown people. They have identified applicant in test identification parade.

15) Prima facie, there are other eye witnesses, too who have

marked presence of the applicant as a member of unlawful assembly. Ld. Advocate for applicant has argued that though charge-sheet is filed, it may take time to conduct the trial. She has relied on case laws. I have carefully gone through them. It would be pertinent to note that the charge is framed. The prosecution has moved application under Section 330 of the BNSS (Section 294 of the Cr.P.C.), the list of witnesses is provided. The prosecution is ready to conduct the trial.

16) The offence is very serious. There are independent witnesses. All live in same area. The prosecution is ready to conduct trial. In such circumstances, it is not proper to consider the bail application at this stage. Hence, proceed to pass following order :

ORDER

- 1) Application Exh.35 is rejected.
- 2) Inform to concerned police station accordingly.
- 3) The soft copy of this order shall be sent to the applicant/accused by e-mail through the Jail Superintendent.

Kalyan.
Dt. 11/08/2026

(V. A. Patravale)
Additional Sessions Judge,
Kalyan.