

MHTH060009882026



Sessions Case No. 145/2026 (Exh.31)

The State of Maharashtra.
(Kalyan Taluka Police Station)

V/s.

Samir Namdeo Dhalpe

ORDER BELOW EXH.31

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) Learned advocate for the applicant has argued that his name is not mentioned in the FIR. No role is attributed to him. Nothing is recovered from him. It is argued that there is previous enmity. The applicant is falsely implicated. There is no evidence against him. The investigation is complete and charge-sheet is filed. The applicant is having permanent address. He is ready to furnish surety and abide by term and conditions. Two accused are already released on bail. Considering that there is no direct evidence against the applicant, he be released on bail. Hence, application be allowed.

3) 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 to any of the applicants. It is argued that 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.

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

5) 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 went to the spot, everyone had disbursed. Thereafter, at about 7.00 p.m. deceased, the informant along with witnesses Ajinkya, Aakash and other eye witness 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. 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. The 4 accused named in the FIR were carrying weapons such as

knife, sharp edge weapons, etc. They also used broken glasses of a hotel 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.

6) 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 given various blows of sharp weapons as well as other weapons. Prima facie, it is seen that he was taken to the hospital, however, declared dead on arrival.

7) Prima facie, it is seen that the entire incident is witnessed by informant, another friend Dilip Shelar, the owner of the hotel, as well as, the waiter. Present applicant is one of those unknown people who were accompanying with the named co-accused. Prima facie, it is seen that the attack was directed upon the deceased only as he was the only person who got injured. Prima facie, it is seen that co-accused Suraj & Kalpesh had previous enmity with deceased Kiran Ghorad. Two previous incidents are mentioned by wife of deceased Kiran which had arose out of the civil contracts. Ld. Advocate for the applicant has argued that applicant is falsely implicated. He was not found present at the spot. His role is not specific. He is one of the unknown person mentioned in the FIR.

8) On perusal of the entire charge-sheet, prima facie, it is seen that initially only four people were named in the FIR. However, thereafter supplementary statement is given and other people are named. Applicant is one of them. Prima facie, it is seen that thereafter test identification parade was conducted and the eye witness identified present applicant as one of the person present at the spot and was active member of the unlawful assembly. The veracity of the

test identification parade is questioned. The argument is advanced that the applicant resides in the area, many were batchmates in the school. Further, they are identified only by the interested witnesses, whereas, independent witnesses were also present. So far as CDR is concerned, it is argued that since there is one single tower, it is but natural that the location will be found in the same area.

9) It would be pertinent to note here that whether test identification parade was conducted properly or whether it was merely a farce can be decided only at the time of trial. At the stage of bail, it is necessary to see the facts as they appears prima facie. Admittedly deceased was attacked and he succumbed to the injuries sustained by him in the attack by 4 accused named in the FIR and their friends who formed unlawful assembly, the common object of which was to cause hurt to the deceased. Prima facie, it is seen that the act is carried out and resulted in the death of injured Kiran Ghorad.

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. However, 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 breaking 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 and even if it is assumed that he was present and damaged the furniture, it is less grave. Prima facie, applicant is arraigned as an accused as a member of unlawful assembly.

14) 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 going towards Sai Milan Hotel, the spot of

incident and also leaving the spot. Prima facie, 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 eye witnesses, 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. 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.31 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.