

IN THE COURT OF SESSIONS, YAVATMAL

MHYA010024502025

C.B.A. No.386/2025

Krishna Vs. State

Order Below Exh.01*(Passed on 19th December, 2025)*

Applicant/accused No.3 Krishna @ Shrikrishna Chandrakant Sidam has moved this Court vide Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking bail in connection with Crime No.878/2025 registered with Police Station, Awadhutwadi, Yavatmal for the offence punishable under sections 109, 103 (1), 351(2), 352, 296, 189(2), 190, 191(2), 191(3) of B.N.S., 2023.

2] The contention of the applicant/accused No.3 is that he is bonafide, peace-loving person. He is permanent resident of Surbhi Nagar, Umarsara, Yavatmal. He has movable, immovable property there. He is innocent. He has no past antecedent. False report has been lodged by informant alleging that when he and deceased were proceeding on Motor Cycle they were intercepted by the accused who raised quarrel by abusing and when they expressed objection to it they attacked with knives. On basis of report crime has been registered. Two accused and C.C.L. have been arrested. Charge-sheet have been filed and it is pending committal. Police have informed him that they are searching for his whereabouts in regard to crime which has given rise to apprehension of imminent arrest. He has no concern with the case or death. His name is not mentioned in F.I.R.. There is not present any direct evidence. He is only involved due to suspicion. No *prima-facie* case is made out. He

is ready to abide all condition. He is willing to furnish surety. Hence, application.

3] Say of APP and I.O. was called. APP vide his say (Exh.05) has strongly opposed the bail application. Facts of the case have been elucidated. It is pointed out that in the statements reduced involvement of applicant/accused No.3 is revealed. He had been in contact with co-accused Om Salam through mobile before and after incident. *Prima-facie* case is made out. If enlarged there is possibility of pressurizing and reoccurrence. Mobile is required to be seized and investigation done. On above grounds rejection is prayed for.

4] The IO vide his say Exh.6 has opposed bail-application. It is submitted that applicant/accused No.3 along-with co-accused has stabbed the deceased to death and attempted to murder the informant if enlarged he might pressurize witnesses. He might abscond. He might tamper with evidence. It will cause the witnesses to live under shadow of fear. The nature of offence is serious.

5] The defence counsel argued that charge-sheet has already been filed in the matter. He amplified that both the two major and juvenile accused have been released. He continued that role attributed to applicant/accused No.3 was less graver than both juvenile and one major accused who were alleged to have actively participated. Drawing the attention of this Court to F.I.R. (Sr.No.1/List Exh.4) he pointed out that the name was not mentioned. He posited that even in C.C.T.V. footage applicant/accused No.3 had not been seen. He asseverated that

even in his memorandum accused No.1 had not disclosed him to have been present along with them. He combated that version given by parents of deceased who highlighted involvement of applicant/accused No.3 was bearsay. He pointed out that even alleged eye-witness Ganesh had not disclosed of his involvement. He argued that the name was added subsequently in statement reduced under Section 183 of Cr.P.C. which shows that he is falsely involved. He concluded that applicant/accused No.3 was a student having no criminal antecedent.

6] Traversing the defence argument APP took this Court through the statements given by parents, witnesses to point out that all of them had divulged regarding the involvement of applicant/accused No.3. He proffered that even in police say participation on part of applicant/accused No.3 had been enunciated.

7] Heard both sides. Gone through FIR and copy of charge-sheet submitted on record by defence side. At the outset prosecution combated that with charge-sheet being filed anticipatory bail could not be applied for The defence counsel asserted that filing of charge-sheet did not debar applicant/accused from applying for anticipatory bail. Taking of cognizance or filing of charge-sheet does not per se prevent grant of relief in apposite case. Any further discussion would only amount to pleonasm and hence, this court restricts from doing so.

8] There is no doubt that the nature of offence is grave and the charge is serious. Even the punishment which will entail on conviction is severe. However, the legislative intent behind section

438 of Cr.P.C. which is *pari-materia* to section 482 of BNSS is to safeguard personal liberty of any individual and to protect him from being subjected to unnecessary Police custody. Since a criminal offence is not just against an individual rather the society interest is at stake it is requisite that a delicate balance is established between the two rights which are of safeguarding of personal liberty along with societal interest. It is in this light, that the instant application needs to be cogitated upon. For the same various factors including the facts and circumstances of the case are to be delved into since there is no straight jacket formula which can be applied to any given scenario.

9] The prosecution has objected to release of accused No.3 on the ground that his involvement is apparent from statements recorded. The defence counsel exhorted that as evident from FIR (Sr.No.1/List Exh.4) accused No.3 has not even been named which shows that he is falsely implicated. In this context, it is relevant to note that in prosecution say (Exh.5) the role attributed to applicant/accused No.3 is of having assaulted by means of fist and kicks and having fled away. He is not the one who is alleged to have stabbed with the seized knife. Thus his role is comparatively illume to be less grave than those of others.

10] In any case the rival contentions agitated by both the sides involve question of fact and law which cannot be cogitated upon unless both sides have got opportunity to participate through evidence and cross-examination. Further, veracity of evidence and whether it is sufficient to make pellucid involvement of accused No.3 is a question of trial. The *mens-rea* ascribed to accused No.3

cannot be deliberated upon in depth at this tier. It has to be taken into account only to the limited extent of whether the prayer for bail can be considered.

11] The prosecution exhorted that accused No.3 had been in touch with co-accused Om before and after incident on mobile which shows his implicity. It is contended that his mobile needs to be seized for which custody is needed. The defence exhorted that as overt from copy of charge-sheet the seizure of weapon had already been done at the instance of co-accused. What is irrefragable from the copy of case diary before me is that the 'knives' have already come to be seized during investigation in furtherance of memorandum panchanama along-with clothes, samples. Thus, recovery or discovery of weapon is not manifest as being pending. So far as mobile is concerned requisite condition in that regard can be imposed. Hon'ble Apex Court has reiterated in catena of judgments that arrest should be the last option and must be directed, ordered only in the circumstances of the case where it is imperative. No factual matrix as warrants custody is thus evident.

12] Further, in addition to above referred facts and circumstances, the substratum of stage of investigation also needs to be taken into account. The defence has contended that charge-sheet has been filed. The same is not denied by prosecution. With the investigation being completed no reason for custodial interrogation of applicant/accused No.3 can be said to be requisite as would require his further physical custody. The stage of matter does not make perspicuous the need of custody.

13] The prosecution further opposed bail on the ground that

charges invoked under the matter are serious. This was counteracted by defence on the ground that applicant/accused No.3 has no role. It has been observed by Hon'ble Apex court in the case of *Javed Sk. Vs. State of Maharashtra Cri. Appeal 2787/24* that however serious a crime may be the Court needs to take into account that applicant is an accused not a convict. It held that it is postulate of criminal jurisprudence that an accused is presumed to be innocent until proven guilty. If the above observations are pondered in context of case in hand it is manifest to come to assistance of applicant/accused No.3.

14] The prosecution has also expressed that there is possibility of absconding since he had absconded after commission of crime. In this context it is relevant to note that mere apprehension cannot stampede the Court into complacent refusal. This is because the object of bail is to secure the presence of the accused person at trial. It is not expected to be punitive or preventive. In such cases "necessity" is the operative test and bail should not be withheld as a punishment. The accused has expressed that he is willing to abide condition which may be imposed by the Court. He is shown to be a resident within jurisdiction of this Court. It is not shown by prosecution that his release would prejudice the case. There are elicited no exceptional factors which manifest likelihood of him interfering, polluting, thwarting the process of investigation, trial. Apprehension of repetition abscondence can be addressed by imposing conditions. The application deserves to be countenanced.

15] Before saying omega it is clarified that any observation

made herein-above are not to be construed to be reflection on the merits of the case and shall remain confined to disposal of this application alone. Ergo, I ordain as follows.

ORDER

1. Application is allowed.
2. In the event of arrest of applicant/accused No.3 Krishna @ Shrikrishna Chandrakant Sidam r/o Surbhi Nagar, Umarsara, Yavatmal in connection with Crime No.878/2025109 registered with Awadhutwadi, Police Station, Dist. Yavatmal, for the offence punishable U/secs. 109, 103 (1), 351(2), 352, 296, 189(2), 190, 191(2), 191(3) of B.N.S., 2023 be released on P.B. of Rs.1,00,000/- (Rs. One Lac Only) with solvent surety in the like amount, on following terms and conditions;

Conditions

- (i) The accused shall not directly or indirectly make any inducement, threat or promise to any person who are connected with alleged crime in any manner so as to dissuade him from disclosing such facts to the Court or to any police officer.
- (ii) He shall not tamper with the evidence or obstruct the investigation in any manner.
- (iii) He shall co-operate in the investigation by attending the concerned Police Station as and when called by the I.O. on written notice, till completion of investigation in his context.

- (iv) The accused not to indulge in any illegal activities or in committing the offence of like nature.
 - (v) He shall produce verified copy of his Aadhaar Card, Cell phone number and other address proof. He shall keep the I.O. updated about any change in address.
 - (vi) His surety shall produce verified copy of his Aadhaar Card, contact details, copy of Bank Pass-Book and other address proof.
3. Inform concerned Police Station accordingly. Humdast allowed.

Date : 19/12/2025

(S.R.Sharma)
Additional Sessions Judge,
Yavatmal