

MHAM010002552025



State (P.S. City Kotwali)

Vs.

Yogesh Gajanan Garud +2

ORDER BELOW EXHIBIT – 4.

(Passed on 14.05.2025)

Applicant/accused No.2 Kamal Ramesh Sahu has filed this application under Section 483 of BNSS seeking bail in connection with crime No. 393/2025 registered with City Kotwali Police Station under Section 103(1) and 3(5) of BNS.

2) I have heard ld. counsel for the applicant and ld. prosecutor. I have gone through the reply filed by the Investigating Officer below Exh. 31 as well as the chargesheet.

3) The applicant and co-accused Yogesh Gajanan Garud and Vikki Sanjay Sahu @ Gupta are charge-sheeted before this court for the above offences.

4) Case of the prosecution in short is such that on 15.10.2025 around 2.45 hours, while the informant namely Gopal Ankush Chavhan and the deceased namely Nishant @ Golu Sunil Ushrete were coming to home from Irwin Hospital, co-accused Yogesh Garud and Vikki Sahu intercepted them at Chitra Square and then co-accused Vikki Gupta demanded Rs.100/- to deceased Nishant. However, the deceased Nishant paid only Rs. 20/- to co-accused Vikki upon which co-accused Yogesh Garud threatened deceased Nishant that he shall stab knife to him. At that time, deceased Nishant gave understanding to co-accused Yogesh Garud as to why he is intervening and why he is threatening

him. Then all of sudden, co-accused Vikki Sahu assaulted the deceased with iron hook while co-accused Yogesh Garud assaulted the deceased with knife on head and also stabbed the knife and hook in the middle portion of chest of deceased and then ran away. Due to such assault, the deceased received bleeding injuries and the informant immediately shifted him to Irwin Hospital. However, the Doctor at Irwin Hospital declared the deceased dead.

5) During investigation, co-accused came to be arrested and the knife as well as hook came to be seized. During further investigation, it also revealed that present applicant is having involvement in this crime. Hence, he also came to be arrested.

6) Through this application, it is the submission of applicant that his name is not mentioned in FIR though the informant is eye witness to the incident. There is no whisper of his presence at the spot in the report lodged by the informant. Despite that, he came to be arrested on 16.10.2024 without attributing role to him and since then he is languishing in Jail. He is innocent and falsely implicated in this crime. Supplementary statement of the informant and one witness namely Samir Tayde were recorded on the next day of the incident. Limited role has been assigned to the applicant that he had provoked the main assailant to commit this crime. As such, the conduct of informant and alleged eye witness is suspicious. Perusal of CCTV panchnama completely falsify the allegations leveled against the applicant as presence of the applicant is nowhere mentioned in CCTV panchnama. Grounds of arrest were also not communicated to him at the time of his arrest and therefore, he deserves to be released on bail.

7) Prosecution has opposed the application on the ground that at the time of arrest of co-accused, informant Gopal Chavhan and witness Samir Tayde had given statement regarding involvement of the applicant and therefore, the applicant came to be arrested. As such, the applicant is having involvement in this crime due to which there is strong possibility that upon release on bail, applicant may influence the prosecution witnesses and tamper with evidence.

8) Upon going through the charge-sheet, it can be gathered that informant Gopal Chavhan is the material eye witness in this case. He was accompanied with the deceased at the time of incident as they both were proceeding with him by Aactiva Scooter. The informant specifically narrated role of only two accused i.e. Vikki Gupta and Yogesh Garud. Co-accused Vikki Gupta had demanded Rs. 100/- to the deceased upon which the deceased paid him only Rs. 20/-, then accused Yogesh Garud threatened the deceased to stab with knife and then both these co-accused assaulted the deceased with knife and iron hook on head and chest and then they both ran away. There is no whisper about presence of any 3rd assailant or instigator at the spot in his statement. No role is attributed to any third person in relation to assault to the deceased.

9) Charge-sheet also reveals that on next day of the incident i.e. on 26.10.2024, informant gave statement to the effect that at the time of incident, present applicant was instigating the co-accused to assault the deceased and after assaulting the deceased, all three assailant ran away. He has explained that due to said incident, he was frightened and therefore, he could not narrate the name of the applicant. Now there is statement of another eye witness namely Samir

Raju Tayde who has stated that he was also accompanied with the deceased and informant on Activa Scooter while proceeding towards home from Irwin Hospital and he has seen the co-accused assaulting the deceased with iron hook and knife and the present applicant instigating them to assault the deceased.

10) The investigating officer has conducted panchnama of CCTV footage of the incident. In this footage, the deceased, informant and eye witness who must be Samir Tayde, are appearing at the spot. The accused Vikki Sanjay Sahu and Yogesh Gajanan Garud are also appearing in this footage. It is apparent that accused Vikki Sahu is talking with the deceased and then accused Yogesh Garud comes near the deceased and at that time, deceased is appearing taking out money from his pocket. Then the informant, deceased and Vikki Sahu are appearing talking to each other. In this CCTV footage, presence of present applicant is nowhere mentioned nor any role is attributed to him like instigating the co-accused.

11) As such, the supplementary statement of the informant is contradictory to his own version in the report as well as to the CCTV footage panchnama.

12) Even if it is assumed for a while that present applicant has instigated the co-accused, it does not appear as to whether he had instigated co-accused to kill the deceased. He has no overt act in the entire crime. If the supplementary statement of informant and of the eye witness Samir Tayde are considered, it can be seen that present applicant had instigated the co-accused to assault the deceased. No inference can be drawn that he has instigated them to kill the deceased.

Therefore, the alleged role played by the applicant can be distinguished from the role played by the co-accused Vikki and Yogesh who have actually alleged to have assaulted the deceased with knife and iron hook and caused his death. Under such circumstances, in my considered opinion, applicant deserves to be released on bail. Hence, following order.

ORDER

1. Application is allowed.
2. Applicant Kamal Ramesh Sahu be released on bail in connection with crime No. 393/2024 registered with City Kotwali Police Station under section 103(1), 3(5) of BNS, on his furnishing P.R. of Rs. 50,000/- with one or more sureties in the like amount subject to following conditions.
 - a) Applicant shall regularly attend Trial Court unless exempted from personal appearance.
 - b) Applicant shall attend City Kotwali Police Station once in every month on 3rd Saturday in between 11.00 am to 2.00 pm and shall maintain personal diary of his attendance till recording evidence of the informant and eye witness.
 - c) Applicant shall not influence the prosecution witnesses nor shall tamper with evidence either directly or indirectly.
3. Concerned Police Station be informed accordingly.

Date :- 14/05/2025.

(R.G. Waghmare)
Addl. Sessions Judge,
Amravati.