



Sessions Case No. 79/2025
State X Pawan Banait + 3
CNR-MHBU04-001043-2025

ORDER BELOW EXH. 40

Date of Order : 28th January, 2026

Present application has been filed by the applicant/accused No. 2 namely **Mohan Dashrath Banait**, under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, for grant of regular bail, in Crime No. 61/2025 registered at Khamgaon Rural Police Station, Taluka Khamgaon, District Buldhana for the offences punishable under Sections 103(1), 109(1), 118(2), 351(2), 351(3) read with Sec. 3(5) of the Bharatiya Nyaya Sanhita, 2023.

2. Ld. A.P.P. Mrs. R.A. Alsi has resisted the application by filing say at Exh. 41. It is contended that, applicant/accused with other co-accused caught hold deceased Raghunath and accused Pawan assaulted Raghunath with knife on the left side of his stomach and shoulder. Thereafter when Gopal Gadhe intervened accused Pawan assaulted him with knife and threatened him. It is contended that, applicant accused has committed heinous and serious nature offence. All accused furtherance of their common intention have done the criminal act, therefore,

every accused person is liable for the act in the same manner as if it were done by him alone. It is contended that, applicant/accused has active role played in the commission of offence, hence, requested to reject the application.

3. Original complainant through Ld. Advocate Miss L.N. Hiwrale appeared and resisted the application by filing objection petition Exh. 44 in the line of F.I.R. and requested to reject the application. Further it is contended that, accused Dashrath Banait has been released on bail by the Hon'ble High Court on the ground of his old age and illness. Therefore, applicant is not entitled to release him on bail on the ground of parity. It is contended that, most of the witnesses are resident of Mauje Shelodi and accused is also resident of Mauje Shelodi. Therefore, if he released on bail then he will pressurize the injured persons, witnesses including complainant. It is contended that, in the case of *Kumer Singh Vrs. State of Rajasthan in Criminal Appeal No. 571/2021*, the Hon'ble Rajasthan High Court has granted the bail to the accused in similar offence and the Hon'ble Supreme Court by allowing the appeal has rejected the bail and given some guideline that while

deciding the bail application it is necessary to consider the nature of offence and the consequences if accused released on bail. It is contended that, trial may be conducted keeping the applicant/accused in jail. Hence, requested to reject the application.

4. Heard Mr. N.B. Sakhare, Ld. Advocate for accused. He submitted that, this is first regular bail application filed by the applicant after filing of charge-sheet. He submitted that, as per contents of F.I.R. the role of applicant is to the extent of holding of hands of the deceased and injured Gopal Gadhe. He further submitted that, applicant/accused arrested on 04/03/2025 and since then he is behind bars. He submitted that applicant has no criminal antecedents. Now, the investigation has been completed and his further detention is not necessary. He submitted that, accused Dashrath has been released on bail by the Hon'ble High Court. Moreover, accused Manorama Dashrath Banait also has been released on bail by this Court. He submitted that, the role of present applicant is similar to the role of accused who are released on bail. Hence, applicant is also entitled to be released on bail to the ground of parity. He further submitted that, applicant is

permanent resident of Shelodi, Taluka Khamgaon. He is ready to furnish surety and abide each and every condition imposed while releasing on bail.

5. On the other hand, Mrs. R.D. Bawaskar, Ld. A.P.P. and Smt. L.N. Hiwrale, Ld. Advocate for the original complainant have argued as per their say. They have submitted that all accused have committed the serious offence of murder. Applicant and other two accused have hold the deceased and other main accused Pawan Banait by knife has assaulted to the deceased. Due to it, deceased could not defend himself. Therefore, all accused are equally responsible for commission of offence of the murder. They have submitted that this Court has released the accused Manorama being woman. Hence, the ground of parity is not applicable to the applicant. Therefore, they have urged to reject the application. Ld. Advocate for the complainant has relied upon the case **Mahipal Vrs. Rajesh Kumar Polia and others, (2020)2 SCC 118** in which the Hon'ble Supreme Court while allowing the appeal cancelling the bail of five accused observed that, where an order refusing or granting bail does not furnish the reasons that inform the decision, there is presumption of non-

application of mind which may require the intervention of this Court. Where an earlier application for bail has been rejected, there is a higher burden on the Appellate Court to furnish specific reason as to why bail should be granted. Ld. Advocate for the complainant has also relied upon the case **Kalyan Chandra Sarkar Vrs. Rajesh Ranjan @ Pappu Yadav and another, AIR 2005 Supreme Court 921**, in which the Hon'ble Supreme Court while allowing the appeal cancelling the bail of accused observed that it is not necessary for us to weigh the evidence at this stage since we have already come to the conclusion that the prosecution on the basis of material available on record has established a prima facie case against the accused and we are also opinion that, the conduct of the respondent accused as brought on record clearly indicates that, enlarging the said accused on bail would impede the progress of the trial.

6. I have thoughtfully considered the submission of both sides. Perused the application, say filed by the I.O., A.P.P. and complainant. I have perused the documents placed on record by the applicant/accused as well as the copy of charge-sheet. I have gone through the bail order

passed by the regular Additional Sessions Judge – 2, regarding the accused Manorama.

7. After perusal of the entire charge-sheet, it shows that there was quarrel taken place between accused No. 1 and deceased Raghunath Gadhe on account of vehicle. Due to it accused Nos. 2 to 4 caught hold deceased and accused No. 1 Pawan by knife assaulted in his stomach due to which deceased was sustained injury. As per charge-sheet, Gopal Gadhe rushed to save the deceased, but he was also assaulted by the accused Pawan.

8. Thus, after perusal of charge-sheet, it shows that applicant and other two accused have hold the deceased and accused Pawan by knife assaulted to the deceased. He has also assaulted to the Raghunath Gadhe and Gopal Gadhe by knife. If applicant and other co-accused would not have caught hold the deceased, then, certainly the deceased would have tried to save himself. Considering above aspect, the role of applicant is also equal to the accused Pawan.

9. Here, I would like to mention here that the regular Additional Sessions Judge – 2 has released the

accused Manorama on regular bail being woman. My view on the point of bail is different than him. I have already rejected the bail application of Dashrath Banait. Therefore, according to me the rule of parity is not applicable to the applicant.

10. As alleged offence is serious offence. The role of applicant is attributing along with main accused in commission of murder. Therefore, in the light of above observations of the Hon'ble Supreme Court in the cases cited supra by the complainant, I am not inclined to release the applicant on bail. Hence, application deserves to be rejected. In result, I pass the following order :-

ORDER

The application Exh. 40 is hereby rejected.

Khamgaon.
Date – 28/01/2026.

(G.B. Jadhav)
Additional Sessions Judge,
Khamgaon.

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CERTIFICATE

I certify that this order P.D.F. uploaded is a true and correct copy of original signed order.

Name of the Court : Additional Sessions Judge,
Khamgaon.

Name of the Stenographer : Miss H.D Chaudhari,
Stenographer Grade I.

Date of Order : 28/01/2026.

Date of Uploading : 28/01/2026.