

ORDER BELOW Exh.6.
(Passed on 21.03.2025)

This application under section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking bail in connection with Crime No.348/2024 (Sessions Case No.03/2025) registered at Police Station, Sindewahi, Tah. Sindewahi, Distt. Chandrapur under sections 103, 140 (3), 3 (5), 61 (2) of the Bharatiya Nyaya Sanhita, 2023. The charge-sheet has already been filed and the matter is at the stage where charges are required to be framed.

2. On 13.09.2024 the deceased Nandakishor who is resident of village Saradpar, Tah. Sindewahi went missing. The First Information Report lodged by brother Sanjay Hiranman Khobragade alleges that the deceased had purchased landed property in the year 2021 at village Kinhi from one Nandubhau Pyaramwar and because of this transaction relations of deceased with accused no.1 Namdeo Dhanvijay were strained. It is also alleged that accused no.1 had threatened the deceased in one incident. After filing of FIR of kidnapping against accused no.1 Namdeo Dhanvijay and two other unknown accused, investigation was conducted and it was further transpired that accused no.1 conspired to eliminate the deceased and, at his behest, accused no.3 and 4 executed the plan. Firstly accused nos.3 and 4 went to the

house of deceased Nandakishor and at the pretext of purchasing illegal sand, they asked him to come along with them. Thereafter they took the deceased to village Rajoli where they consumed liquor at a local bar and subsequently they pushed the deceased off a bridge into the river resulting in his death. Body of deceased was later recovered leading to charges under section 103 of Bharatiya Nyaya Sanhita, 2023. All four accused were arrested and now they are behind bars.

3. I have carefully heard to the learned Advocate Shri R.D. Sagore for the accused no.2 and Shri S.B. Nagpure for the State. Both parties have advanced their respective arguments at length.

4. Learned Advocate for accused no.2 contended that accused no.2 was neither present at the crime scene nor directly involved in the offence's execution. The sole allegation against accused no.2 is that 2 to 3 days prior to the incident accused nos.2, 3 and 4 had visited the house of accused no.1 and they had conspired the murder of the deceased and accused nos.3 and 4 have used the car of accused no.2. There is no evidence suggesting that accused no.2 had prior knowledge of the conspiracy or there is no evidence suggesting that 2 to 3 days prior to the incident all accused had conspired and in that conspiracy accused no.2 participated in planning or executing the alleged crime.

5. Upon reviewing the investigation materials, it is

evident that alleged involvement of accused no.2 is limited to providing a vehicle and alleged conspiracy. Primary allegations are against accused no.1 regarding the conspiracy and roles of accused nos. 3 and 4 are in respect of actual execution of the offence. Prosecution has not presented substantial material linking accused no.2 to the conspiracy or the execution.

6. Mere association or passive involvement, without active participation or direct evidence of conspiracy is not sufficient to keep the accused behind bars during the trial. No doubt, seriousness of the charge and the severity of the punishment are the factors to consider when granting bail but they should not be the sole determinants, especially when the involvement of accused is minimal.

7. Considering the alleged limited role of accused no.2 and the absence of direct prima facie evidence linking him to the crime, his continued detention is unwarranted. There are no reasonable grounds to believe that he would tamper the evidence or influence witnesses if released on bail. Therefore, I pass following order.

Order

1. Application of accused no.2 Sopan Bhaurao Jillhare is allowed.
2. Accused no.2 is directed to be released on bail upon executing a personal bond of Rs.50,000/- with one

solvent surety of the like amount subject to following conditions:

- (i) The accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case.
- (ii) The accused shall co-operate with the trial proceedings and attend hearings regularly unless exempted by the Court.
- (iii) The accused shall not leave the jurisdiction of the Court without prior permission and shall inform the Investigating Officer of any change in his residential address.

Date : 21.03.2025.

(L.D. Bile)
Additional Sessions Judge,
Chandrapur.