

MHKO010040822024



ORDER BELOW EXH.32

(State of Maharashtra Vs. Ganesh Vikram Kate)

1] Perused application and say. Heard Advocate for accused No.1 and APP for the State. Perused affidavit filed on behalf of accused No.1 in respect of compliance as per guidelines.

2] This is first bail application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita (Hereinafter referred as 'BNSS') by accused No.1 in respect of his arrest in C.R.No. 430/2024 registered at P.S.O. Rajarampuri Police Station for the offences p/u/s. 103(1), 3(5), 352, 351(4) of the Bharatiya Nyaya Sanhita (Hereinafter referred as 'BNS'). First Informant resides with her husband and children and deceased Pankaj was brother of first informant. Prior to 4 to 5 years first informant lodged report against accused No.1 Ganesh Kate for offences p/u/s. 376 of Indian Penal Code (hereinafter referred as IPC). Out of it brother of first informant viz. Pankaj beat accused No.1 and accused No.2 Umesh. Offence of attempt of murder was registered against Pankaj. There was quarrel between family members of first informant and family members of accused. Accused No.1 to 3 were insisting first informant to withdraw case of rape filed against accused No.1. For that reason accused No.1 to 3 were frequently making phone call to Pankaj, were harassing him and threatening to kill him. On 2/7/2024 at 2.00 p.m. first informant made phone call to Pankaj and demanded vehicle, he told that he was going to work. After some time first informant received phone call of her mother who was in a frightened condition and she told that accused No.1 to 3 and their friend i.e. accused No.4 Amit assaulted Pankaj by some article. First informant made phone call on mobile number of Pankaj but police picked her call and told that one person was lying in pool of blood and he was having that phone. Then as per instance of police first informant and her neighbour Padmini went to CPR Hospital, there was rush and they

found that Pankaj sustained injuries at face, head and blood was oozing. Then doctor declared that Pankaj was dead. So first informant lodged report against accused No.1 to 4 that they were in collusion with each other committed murder of Pankaj.

3] According to accused No.1, he is falsely implicated. He has not committed alleged offence. Statement of first informant is hearsay and based on suspicion. Except in statement of witness Manish, no other witnesses stated name of accused No.1 and about his role. Eye witnesses made allegations against unknown person and their identity is not proved. Test Identification parade is not conducted and same is fatal. Accused No.1 is behind bar since 4/7/2024 and there is violation of fundamental right to liberty under Article 21 guaranteed by Constitution of India. Nothing incriminating is recovered from accused No.1. Witnesses are interested. Accused No.1 has co-operated during investigation. After completion of investigation charge-sheet is filed and further detention of accused No.1 is not required. Accused No.1 is 30 years old and doing labour work. He is resident of Gadmudshingi, Kolhapur. He is ready to abide conditions and prayed to release him on bail.

4] APP and I.O. objected application on the grounds that there was collusion of accused No.1 to 4, they conspired to commit murder of Pankaj, assaulted him by means of stones and stick at vital parts and committed murder. Accused No.3 Nilesh gave memorandum statement and showed spot of incident. There was motive and intention behind the act because accused No.1 to 3 were harassing deceased Pankaj for withdrawal of rape case filed by first informant against accused No.1. They were also harassing first informant and her family members and were threatening her to withdraw the case. Accused No.1 and 3 were found on the spot of incident. First informant did video recording at spot of incident and her mobile is sent for Forensic Laboratory. APP for State raised the ground that CCTV footage as well as mobile video prima facie establish presence and participation of accused No.1 in crime. Weapons and other incriminating articles seized during

investigation connect accused No.1 with crime. There was pre-planning and deceased was assaulted brutally on head by stones and stick. Material role is attributed to accused No.1 and he is habitual offender. There are criminal antecedents. Already all accused used to threat deceased and first informant. So there is possibility of tampering prosecution evidence by giving threat and pressure to first informant, eye witnesses and other witnesses. There is possibility of absconding of accused No.1 and they prayed to reject application.

5] Allegations against accused No.1 are serious. From statement of First Informant and eye witnesses, role attributed to accused No.1 can be gathered as per their statements and documents. First informant filed rape case u/s. 376, 506 of IPC against accused No.1. In affidavit on behalf of accused No.1 there is mention of said case as antecedents. First informant stated that accused No.1 to 3 were harassing her and her brother Pankaj for withdrawal of said case, they were threatening them. On 2/7/2024 after receiving phone call of mother, first informant immediately went at CPR Hospital. As per provisional postmortem report cause of death of Pankaj is head injury. From spot of incident stones, stick having blood stains, mobile phone, chappal of deceased having blood stains and Hero Honda motorcycle of accused etc. are seized. As per memorandum statement of accused No.3 Nilesh, there is disclosure of spot of incident. Blood stained clothes of deceased, accused No.1 and other accused are seized.

6] In charge-sheet i.e. police papers, there are statements of eye witnesses Manish, Sambargi, Shivaji Kamate, Pandit Patil etc. Witness Manish narrated in detail that on 2/7/2024 he along with his family members were going from their four wheeler being driven by deceased Pankaj. At the gate of their house accused No.1 to 3 were present, they abused Pankaj, were dragging him outside vehicle and assaulting him by means of stones and stick. Accused No.1 assaulted Pankaj by stick at head, accused No.2 and 3 assaulted Pankaj by means of stones. Labourer tried to rescue but all accused assaulted Pankaj and took him towards Neharu Vidyalaya, they assaulted him

by means of stone at head etc. Advocate of accused No.1 submitted that nothing is recovered from accused No.1, in view of filing of charge-sheet, role attributed to accused No.1, his further detention is not required. He is in jail since 4/7/2024 and there is violation of his fundamental right to liberty. APP for State submitted that in view of manner of offence, weapons used, fact that accused were harassing first informant and deceased for withdrawal of rape case, there is gravity of offence.

7] APP for State filed pursis and copy of order in Cri. Bail Application No. 99/2025 filed by accused No.4 Amit Gaikwad in Hon'ble High Court, Circuit Bench at Kolhapur. As per order dt. 22/1/2026 permission is granted to withdraw bail application with observations that when Hon'ble High Court was inclined to grant bail, Advocate of applicant seeks permission to withdraw it with liberty to apply after six months. As per charge-sheet there are statements of above mentioned witnesses and other witnesses u/s. 183 of BNSS. Witness Daya and Yogesh stated that accused No.1 to 3 used to threat and abuse Pankaj by making phone call. Witness Ranitai, Santosh, Krushnat etc. stated about entire incident of assault on Pankaj by accused persons. Therefore prima facie there are eye witnesses to the incident. In this matter charge is framed and matter is kept for evidence. In such circumstances, there is possibility of tampering prosecution evidence by giving threat and pressure to first informant and other witnesses. From material in charge-sheet prima facie involvement of accused No.1 can be gathered. In view of gravity of offence and above reasons, it is not proper to release accused No.1 on bail. Hence following order is passed.

ORDER

Application is rejected.

Date : 23.7.2026

(Smt. R.V. Adone)
Additional Sessions Judge,
Kolhapur.

Certificate

“ I affirm that the contents of the P.D.F. File order are same word for word as per original order.

Sd/-

[A. A. Patil]
(Stenographer G-1)