

MHLA070002132025



Sessions Case No.15/2025.  
State of Maharashtra -Vs- Lala Shaikh &  
oths.

**ORDER BELOW EXH.6.**

This is an application under sec. 483 of the Bhartiya Nagrik Suraksha Sanhita for regular bail filed by accused Lala Pashamiya Shaikh, Khurshid Pashamiya Shaikh, Aasmad Bashir Shaikh.

2) According to accused, they were arrested in connection with Crime No. 23/2025 registered with Deoni police station for the offences punishable under section 109, 118 (1), 115(2), 3(5) of the Bhartiya Nyaya Sanhita. Investigation is completed and charge sheet is filed. They have not committed any offence. Due to civil dispute between brother of accused and his son, i.e. complainant false case is filed against them. It is further submitted that the statement of the eye witnesses and the complainant are not corroborated to each other about the incident and the role attributed to the accused. As per report, it is alleged that accused Lala assaulted complainant by knife, while the statement of witnesses whispered that accused assaulted complainant by Katii. So also, in report the informant stated that, accused Khurshid assaulted him by axe, which is not found in statement of the witnesses.

3) On face of the report, it is alleged that in all four accused were involved in the incident including one Rashid in addition to the present accused. After completion of investigation, it is revealed that Rashid was not at all present on spot and concerned with the alleged incident. It is stated that alleged incident is the outcome of property dispute. The father of accused has filed civil suit bearing RCS No. 195/2024 against the complainant and his wife, which is pending before the court. There is material contradictions in statement given by the informant and the witnesses before the police. It is stated that injured has not sustained any grievous injury as per medical certificate on record. The case of the complainant of assaulting him by four accused with knife and axe is not cogent after taking into consideration nature of injuries sustained to the complainant. It is doubtful that complainant is helping father of accused in this matter. It is also stated that investigation is completed and nothing is required to be recovered from accused. The accused are not having any criminal antecedents. They are the bread earner of their family. All family members are depending upon him. Marriage of nephew of accused will somenize on 24-4-2025. The accused are abide by the conditions imposed upon them, while releasing them on bail. So,

prayed for releasing the accused on bail.

3) Learned APP has not field say to the application. The complainant also resisted the application through assist to APP by filing say Exh.10. He opposed the bail application on the ground that accused are having criminal antecedents, they have created terror in the village. Before the incident, the accused assaulted wife of complainant and outraged her modesty, therefore, Cr. No. 317/2024 was registered with Deoni police station for the offence punishable under sec. 74, 76, 118 (1), 189 (2), 191 (2), 190, 115 (2), 352, 351 (2), 324 (4) of the B.N.S. It is further contended that accused pressurized the complainant and witnesses for not deposing before the court. If the accused are enlarged on bail, they will cause danger to life of complainant and his family. So, prayed to reject the application.

4) Heard learned counsel for the accused and learned APP for the State. The advocate assisting the learned APP is present before the court, at the time of submission of accused.

5) As per record it is found that before filing charge sheet applicant has moved application for regular bail by filing Cri. M. A. ( Bail) No. 33/2025

before the court, but said application was rejected by order dt. 19-3-2024 on the ground that investigation is in progress, the weapons are seized from accused, so also there is possibility of tampering prosecution witnesses. Later on, the charge-sheet is filed on 8-4-2025. The present bail application is filed on the ground that investigation is completed and charge-sheet is came to be filed, which according to accused is change in circumstances to file present application. The accused No.2 is arrested on 22-1-2025 while accused No.1 and 3 are came to be arrested on 25-1-2025.

6) In bail application, the main ground is of filing charge-sheet, the statement of the complainant, report are not stated to be corroborated with the statement of eye witnesses. It is stated that material inconsistency is found about narrating the incident, role played by the accused, number of the accused involved in crime. The investigation papers reveals that informant Kashim Bashir Shaikh was hospitalized has gave statement to Deoni police station on 22-1-2025 against the present accused and one Rashid Papamiya Shaikh, stated that the land Sy. No. 33/A/1 in the vicinity of village Ambegaon is in his name, on 18-1-2025 at about 09.30 p.m. he went to the field.

The accused persons including Rashid Papamiya Shaikh, r/o Ambanagar were present there.

They threatened the informant by saying that how he dare to visit the field, last time he was set free, this time he would not be set free and kill. Insequal Lala Pashamiya rushed on the person of informant and gave knife blow knife on his left shoulder, due to which he fall down. Aslam Bashir Shaikh caught hold his hand and kept food on his person, Rashid Shaikh covered cloth around neck of informant and dragged him. At that time, Khurshid Pashamiya Shaikh gave blow by means of axe on head of informant, due to which he received injury. The accused told that informant would be killed. At that time, Ibrahim Shaikh intervened, the injured was taken to the police station, who referred him for medical treatment. After taking medical treatment in Sahyadri Hospital, Latur the informant has given statement to the police on that basis aforesaid crime was registered against the accused.

7) The police conducted investigation, the accused came to be arrested, during investigation spot panchnama was prepared on 24-1-2025. The weapon axe is recovered from the accused Khurshid Pashamiya Shaikh under sec. 27 of the Indian Evidence Act. The weapon Katti is also recovered at the instance of accused Lala on 25-1-2025 and same was seized under memorandum panchnama under sec. 27 of the Indian

Evidence Act. The police recorded statements of the eye witnesses Ibrahim Manulla, Kashim Shaikh, Almoni Amirsab Shaikh, Nabi Jainoddin Shaikh, Suraj Amirsab Shaikh, who witnessed the incident. The police also recorded statement of other witnesses who had taken injured to the Hospital. Police also seized the clothes of the accused, which were worn by them at the time of incident by seizure panchnama.

8) In order to scrutinize the contention raised in bail application, it is necessary to go through the statement of the informant and the eye witnesses. The informant in his statement before police as well as statement recorded under sec. 164 of Cr. P.C. narrated that on 18-1-2025 accused alongwith Rashid Shaikh made attack on him. Lala Pashamiya Shaikh assaulted him by means of knife on his left shoulder, Aslam Bashir Shaikh caught hold his hand while he was fall down and gave his foot on his body. At that time, Rashid Shaikh covered Gamcha around neck of informant and dragged. Accused Khurshid assaulted informant on his head by means of axe. At the relevant time, Ibrahim intervened and save him. Eye witness Ibrahim Manulla stated that on 18-1-2025 he was in his field. At about 09.30 to 10.00 p.m. he heard commotion, went on shiv-road, at that time, he saw that Kashim Shaikh was being beaten with the fist-

blows, stone and katti. Kashim has raised shout, Lala Pashamiya uttered to kill the Kashim. He tried to intervene. At that time, Lala Pashamiya resisted him. At the time of incident Bashir Pashamiya Shaikh was also present there. Lala Pashamiya assaulted Kashim on his shoulder with the Katti and Aslam pelted stone on Kashim, due to which he fall down. Lala Pashamiya pressed head of Kashim with his foot and Khurshid caught hold Kashim. Thereafter, Aslam pelted stone due to which informant fall down and thereafter they dragged the informant. The other eye witnesses Aslam Shaikh, Almoddin Shaikh, Nabi Jainoddin Shaikh have narrated the incident as stated by Ibrahim Manulla. Further they have reiterated same contents which are found in the statement of Ibrahim Manulla.

9) In the information report injured stated that one Rashid Pashamiya Shaikh in addition to the present accused assaulted him. The statement of eye witnesses not whispered that Rashid Pashamiya Shaikh was part of assailant attributed with role. The police have not filed charge-sheet against Rashid Pashamiya Shaikh.

10) As regards to the role attributed to present accused is concerned, the statement of injured informant show that Lala Pashamiya Shaikh assaulted

him with knife on his left shoulder. Therefore, he fall down. Aslim Bashir Shaikh caught hold his hand and gave foot on his body. Rashid Pashamiya Shaikh dragged by putting cloth around his neck and assaulted with an axe on his head. The eye witnesses who stated that they reached on spot after hearing commotion. The accused assaulted Bashir by means of kicks blows, stone and katti. Bashir was accompanied with his father. Aslam pelted stone on back of Kashim, due to which he fall down, thereafter accused Lala put his foot on head, meanwhile Khurshid caught hold his hand. Kashim tried to ran away in order to save from the cluthches, but Aslam pelted stone due to which he fell down and thereafter they dragged him.

11) As per the statement of informant he was being assaulted by accused Khurshid on his head by using axe, the eye witnesses in their statement have not attributed role of giving blow to the informant with the means of axe on his head by the accused Khurshid. The informant has stated that Yasmin Bashir Shaikh caught hold his hand and put leg on his person. The eye witnesses stated that Aslam pelted stone on back side of Kashim, due to which he fall down and thereafter accused Lala put foot on his head. Thereafter Kashim tried to flee away, at that time, Aslam beat him by stone.

12) It is no where whispered in the statement of informant that at the time of incident he was along-with his father Bashir Shaikh. However, eye witnesses in their statement stated that Bashir Shaikh, father of Kashim was also present alongwith him at the time of incident. Police have not recorded statement of Bashir Shaikh or interrogated with him.

It is also worthy to be noted that in statement of informant it is not whispered that Kashim Shaikh, Almoni Amirsab Shaikh, Nabi Jainoddin Shaikh, Suraj Amirsab Shaikh witnessed the incident.

13) The statement of the eye witnesses are not prima-facie seen corroborated with the information report about the role of giving blow of axe by accused Khurshid on head of informant, one Rashid Pashamiya Shaikh covered Gamja around neck of informant and dragged him. Aslam Shaikh caught hold hand and put leg on his body, the accused assaulted informant by means of stone in addition to the axe and knife, informant was accompanied with his father at the time of incident. There is prima-facie discrepancy in the statement of the informant and witnesses about the role played by each accused at the time of incident. No where name of Rashid Pashamiya Shaikh is mentioned alongwith accused. However, the informant not only

mentioned his name but stated that he had dragged him, if the eye witnesses seen this would have named him in their statement.

14) The injury certificate placed on record show that informant has sustained simple injuries. The injury No.2 is on left tibia bone, but same is simple in nature. There is civil dispute between informant and his father and it is alleged accused are helping father of informant, who is brother of accused. In such circumstances, there appears that investigation is completed and charge-sheet is came to be filed, there appears discrepancy in the statement of informant and accused. Whatever recovery made at the instance of accused stating role played by them are not seen in consonance with the statement of eye witnesses narrating the role played by each accused. At the time of rejecting earlier bail application, it was observed that, investigating was not completed and charge-sheet is not filed. However, at present investigation is completed and charge-sheet came to be filed. So, further detention of accused is not warranted. In regard with tampering with prosecution evidence, condition to that effect will suffice the purpose. In the result, accused are entitled to be released on bail by imposing suitable conditions. In the result, I proceed to pass following order :

**ORDER**

1. The application is allowed.
2. The accused No.1 Lala Pashamiya Shaikh, No.2 Khurshid Pashamiya Shaikh and accused No.3 Aslam Bashir Shaikh, all r/o Ambanagar, Tq. Deoni arrested in connection with Crime No. 23/2025 registered with Deoni Police Station for offence punishable under section 109, 118 (1), 115 (2) and 3 (5) of the Bhartiya Nyaya Sanhita, be released on bail on their executing P. R. Bond of Rs. 50,000/- each with one surety each in like amount.
3. The accused shall not directly and indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer;
4. The accused shall given undertaking that they will not abscond from trial and trial shall not delayed due to their absency on the date of hearing.
5. If the accused misuses liberty or violates any of the conditions imposed on them in any manner the

bail granted to the accused will automatically cancelled.

Date : 25.04.2025.

( Y. B. Game )  
Additional Sessions Judge,  
Udgir