

MHNG120004772026



**ORDER BELOW BAIL APPLICATION OF ACCUSED NO.1 - KISHOR
GANGARAM CHARPE AT EXH. 45 IN R.C.C. NO. 49/2026
(CRIME NO. 509/2025 OF POLICE STATION, JALALKHEDA)**

Accused No. 1 – Kishor Gangaram Charpe has filed this bail application to release him on bail. He contended that he is falsely implicated in the case. The material investigation of case is completed. He further contended that he is ready to abide by the terms and conditions imposed by this Court while releasing him on bail. Hence, he prayed to release him on bail.

2. It is also contended by the applicant/accused that F.I.R. was registered only against 11 persons. A civil suit filed against the husband of the informant by one Mamta. The story of the prosecution is completely false. There is no *mens rea* on the part of the accused / applicant. He is entitled to be released on the ground of parity as other accused are released on regular bail or anticipatory bail by Hon'ble Court of Sessions, Nagpur or Hon'ble High Court of Judicature at Bombay, Bench at Nagpur.

3. Say of Ld. APP and I.O. is called. Ld. APP has filed his say and strongly objected the application. Similarly, I.O. has also filed its say dated 10/03/2026 at Exh. 47 and strongly objected the bail application of accused on the ground that all the sections levelled against accused are very serious in nature and they may pressurize the

informant and witnesses since she is a relative of her.

4. Perused the record, application and say. Heard Ld. Advocate Mr. R. A. Bagde for the accused, Ld. APP V. U. Mirche for the State and Ld. Advocate Mr. A. N. Narnawre for the informant/victim. As per the charge-sheet the sections levelled against accused are under Section 403, 406, 419 , 420 , 467, 468 and 471. The punishment provided for Section 420 of I.P.C. is 7 years and also to fine and punishment provided for Section 406 of I.P.C. is 3 years and also to fine. The punishment for the offence punishable under section 467 of the Indian Penal Code, 1860 may extend upto imprisonment for life. Thus, the offences levelled against accused are very serious in nature.

5. It is argued by Ld. Advocate Mr. R. A. Bagde that the informant has no *locus standi* to lodge the report. It is settled principal of law that any person can set law into motion by filing report (F.I.R.) to the police. Further, the offences are cognizable. Hence, the argument of the accused on this point lacks any ground.

6. It is argued by Ld. Advocate Mr. R. A. Bagde for the accused / applicant that the accused has been falsely implicated. There might have been some mistake on his part, but there was no *mens rea*. On perusal of the document at page No. 114 of the charg-sheet, i.e., certified copy of registered sale deed bearing No. 693/2023, registered with Sub-Registrar, Narkhed, it bears a declaration by the applicant / accused Kishor Charpe dated 28/03/2023 that he is acting in capacity of power of attorney holder and none of the persons for whom he is acting as power of attorney holder is dead. Further, at page No. 132

along with the charge-sheet there is certified copy of registered power of attorney in his favor executed before sub-registrar, Narkhed by multiple persons including one Shantabai Santosh Kanere, dated 02/03/2023 in favor of applicant / accused Kishor Gangaram Charpe dated 02/03/2023. It is the case of the prosecution that Shantabai Santosh Kanere died on 25/12/2022, i.e. before executing the registered Power of Attorney dated 02/03/2023 and registered sale deed dated 28/03/2023. The original death certified of deceased Shantabai Santosh Kanere is filed by the prosecution at page No. 68 along with the charge-sheet. For the sake of argument it can be accepted that on the date of alleged sale the applicant / accused was not aware the death of Shantabai Santosh Kanere and the declaration made on 28/03/2023 is a mistake of fact. However, it is unfathomable that a deceased persons died on 22/12/2022 executed a Power of Attorney in favor of the applicant/accused posthumously. It is pertinent that the accused applicant is the Power of Attorney holder who has the duty of an agent of the principal / grantor who creates the Power of Attorney. Most importantly, deceased Shantabai Santosh Kanere is the paternal aunt (father's sister) of the applicant/accused. Hence, it cannot be stated that the applicant / accused was unaware of the identity of his own aunt (father's sister) for whom he is accepting to act as agent / Power of Attorney holder.

7. Ld. Advocate Mr. R. A. Bagde has vehemently argued that there are multiple signatories, however the informant has not made then an accused. It is the prerogative of the investigating machinery to make any person a accused or file closure report. The informant cannot

be compelled to make every person a accused. Informant's duty restricts only to the point of giving information to the police of what he or she knows. In the present case there is allegation of forgery that to by a registered instrument created before Sub-Registrar, Narkhed who happens to be a public servant and on oath before a public servant. Whether other sections are attracted or not would be decided later. Even if assumed that informant did not name other person accused, it does not absolves the applicant/accused of prima facie involvement. However, prima facie it appears that Section 467 and 471 are attracted. Section 467 of the Indian Penal Code, 1860 is punishable by imprisonment which may extend imprisonment for life.

8. Ld. Advocate Mr. R. A. Bagde has relied upon the authority fo the Hon'ble Supreme Court of India in ***Pradip N. Sharma Vs. State of Gujarat and Anr, 2025 INSC 291*** and specifically relied upon paragraph 18 which reads as follows:

"18. However, considering the nature of the allegations and the fact that the matter is to be investigated primarily based on documentary evidence, the Court is inclined to grant the relief of anticipatory bail to the appellant. The offences alleged pertain to the exercise of administrative discretion in the passing of an order rather than direct physical involvement in any overt criminal act requiring custodial interrogation. The prosecution has not demonstrated any necessity for the custodial interrogation of the appellant beyond scrutiny of official records, which can be done without placing him in detention. Additionally, the appellant has expressed his willingness to cooperate with the investigation, and no material has been placed before this Court to suggest that he has evaded or obstructed the investigation in any manner. Furthermore, it is well-

settled that anticipatory bail can be granted where custodial interrogation is not essential, particularly in cases where the allegations hinge on official records and the presence of the accused can be secured without pre-trial detention. The Court also takes note of the fact that the FIR in question is part of a series of similar allegations against the appellant, and in the absence of any concrete material indicating a likelihood of tampering with evidence or influencing witnesses, the grant of anticipatory bail is justified. Accordingly, while the appellant shall cooperate with the investigation as and when required, he shall not be taken into custody, subject to conditions imposed hereinafter to ensure his participation in the inquiry process.”

9. On perusal of the authority cited above it is observed that the facts are divergent from the case at hand. In the authority cited the accused was a Deputy Collector acting in quasi-judicial function. Moreover, it is relating to official record. The present case involves a registered Power of Attorney which is not an official record, but public record of private document as per Section 74 of the Indian Evidence Act and Section 74 of Bharatiya Sakshya Adhiniyam. Further, there was 7 years delay in lodging the F.I.R. in the authority cited which is not the case at hand. Hence, with due respect to the authority cited it is not helpful to the accused.

10. Ld. Advocate Mr. R. A. Bagde for the accused has also relied upon the authority of the Hon'ble High Court of Judicature at Bombay in ***Shyamsundar Radheshyam Agarwal Vs. State of Maharashtra, 2025:BHC-AS:50852*** and specifically relied upon paragraph No. 66 which reads as follows:

“66. It is also not in dispute that the co accused purchasers, who are alleged to have been part of the chain of transactions, have already been released on bail. This fact reduces the likelihood that the applicant alone requires custodial interrogation for unravelling the transactions. When similarly placed co-accused have been granted liberty, the Court must consider whether parity and fairness warrant protection to the applicant as well.”

11. On perusal of the authority cited it is observed that the Power of Attorney in the authority cited was not a registered one. Further, in paragraph 33 it is observed by the Hon'ble High Court of Bombay that there is long delay in filing FIR and when civil proceeding well settled the issue for many years, the court must be slow to permit a Criminal case to be revive without strong reasons. However, the facts are divergent in the case at hand hence, it is not helpful to the applicant/accused.

12. Ld. Advocate Mr. R. A. Bagde for the accused has relied upon the authority of Hon'ble High Court of Bombay at Goa in ***Amit Anand Pai Raikar Vs. State of Goa and Anr, 2016 (2) Bom. C. R. (Cri.) 186*** and merely relied upon the headnote (Headline) and argued that the accused has not criminal antecedent and the offences is not punishable with death and charge-sheet has been filed. Therefore, the accused shall be released. With due respect to the authority cited, nowhere it is laid down that without going into the *prima facie* or reasonable involvement of accused in the offence, the accused shall be

released on bail as of right, if offence is not punishable with death.

13. The accused has nowhere mentioned in the application, whether the deceased Shantabai Santoshrao Kanere was dead or not on the date of execution of alleged registered Power of Attorney or the sale deed. Nowhere in the application the applicant accused has denied the death of deceased Shantabai Santosh Kanere before execution of the alleged Power of Attorney and sale deed. There is no single submission in the application establishing the bonafides of the applicant/accused. The original death certificate of deceased Shantabai Santosh Kanere issued by Grampanchayat, Khairgaon, bearing the seal and stamp of Registrar, Birth Death and Marriage Registry along with signature mentioning the date of death as 25/12/2022 is on record at page No. 68 with the charge-sheet. Without going into the merits of the case and restricting to the documents on record it *prima facie* appears that the accused created a false registered Power of Attorney in his favor of a dead person at the time of execution and it was used for sale deed. Non only that using the said false Power of Attorney, the applicant/accused executed sale deed in favor of others.

14. Bail application has to be decided in view of the facts of each and every case as held by the Hon'ble Supreme Court of India in ***Gudikanti Narsimhulu Vs. Public Prosecutor High Court of A.P., (1978) 1 SCC 240*** and it was reiterated in ***Harjit Singh Vs. Inderpreet Singh, (2021) 19 SCC 355***, the relevant portion of the latter authority is as follows:

“7.1 In the case of Gudikanti Narasimhulu v. Public Prosecutor, High Court of A.P., (1978) 1 SCC 240, this Court has observed and

held that deprivation of freedom by refusal of bail is not for punitive purposes but for the bifocal interests of justice. The nature of the charge is a vital factor and the nature of the evidence is also pertinent. The severity of the punishment to which the accused may be liable if convicted also bears upon the issue. Another relevant factor is whether the course of justice would be thwarted by him who seeks the benignant jurisdiction of the Court to be freed for the time being. The Court has also to consider the likelihood of the applicant interfering with the witnesses for the prosecution or otherwise polluting the process of justice. It is further observed that it is rational to enquire into the antecedents of the man who is applying for bail to find out whether he has a bad record, particularly a record which suggests that he is likely to commit serious offences while on bail.”

15. In the authority of Hon’ble Supreme Court of India in ***Prasanta Kumar Sarkar Vs. Ashis Chatterjee (2010) 14 SCC 496***, the factors while granting bail to be considered are laid. The factors are as follows:

- (i) Whether there was a prima facie or reasonable ground to believe that the accused had committed the offence;*
- (ii) nature and gravity of accusations;*
- (iii) severity of the punishment in the event of a conviction;*
- (iv) danger of the accused absconding or fleeing, if granted bail;*
- (v) character, behaviour, means, position and standing of the accused;*
- (vi) likelihood of repetition of the offence;*
- (vii) reasonable apprehension of the witnesses being influenced; and*
- (viii) danger of justice being thwarted by grant of bail.*

16. In the present case the prosecution has filed original death certificate deceased Shantabai Santoshrao Kanhire along with charge-sheet at page No. 68. The death certificate clearly mentions the date of her death as 25/12/2022. Further, the prosecution has also filed

certified copy registered document No. 514/2023 dated 02/03/2023 executed in favour of accused No. 1 – Kishor Gangaram Charpe. The prosecution has also filed certified copy of registered sale deed bearing No. 693/2023 dated 28/03/2023. It prima facie appears that false document is created after death of deceased Shantabai Santosh Kanire. There is *prima facie* reason to believe of the accused committing offence. The nature of accusation is severe and offence under Section 467 of the Indian Penal Code, 1860 is punishable with imprisonment extending upto life. The ratio laid down by the Hon'ble Supreme Court of India in *Harjit Singh Vs. Inderpreet Singh, (2021) 19 SCC 355*, and *Prasanta Kumar Sarkar Vs. Ashis Chatterjee (2010) 14 SCC 496* is applicable here. Hence, I proceed to pass the following order:-

ORDER

1. The bail application of accused No. 1 – Kishor dated 02/03/2026 in R.C.C. No. 49/2026 (Crime No.509/2025 of Police Station, Jalalkheda) is rejected.

Narkhed
Date - 12/03/2026

(**Rohan Vijaykumar Thayil**)
Judicial Magistrate, First Class,
Narkhed, Dist. Nagpur.