

Special Case No. 97/2024
[CNR No. MHNS0100014192024]

1. Anil Ashok Khairnar
2. Ashok Sadashiv Khairnar Vs.
State of Maharashtra through Chandwad Police Station

Order Below Exh.45

1. By filing this application it is prayed on behalf of original accused Nos.1 and 3 that they may be released on bail in connection with C.R.No. 333/2024 for having allegedly committed offences punishable under Sections 103(1), 118(1), 115, 189(2), 191(2), 191(3), 190, 352, 351(2) of IPC and Section 3(1), 3(r), 3(s), 3(2)(v) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocity) Act, 1989 registered with Chandwad police station.

2. I have perused application and the say of Ld. APP. I have heard both the sides.

3. Case of the prosecution in brief is that :

Informant namely Balu Dagu Gangurde is the son of the victim Dagu Mahadu Gangurde who unfortunately died due to the injuries sustained by him in the said accident. Informant lodged report to police that on 03.09.2024 throughout the whole day he did the work of wiring at Hiwarkhede and at about 07.30 p.m., he came to his house at Bharvir. At that time his father Dagu Mahadu Gangurde and his mother Lilabai had already come to his house. At that time his wife Sarla told him that on that day at about 1.00 p.m. she went to the backside of her house and uprooted the grass and kept it to the backside of his house. At that

time, their neighbour Anil Ashok Khairnar abused her on the point as to why she uprooted grass and kept it there. On hearing such facts from his wife at about 9.00 p.m. informant went to the backside of his house and he called Anil Khairnar. At that time Anil Ashok Khairnar, Bhagwan Ashok Khairnar, Ashok Sadashiv Khairnar, Swati Anil Khairnar, Sonali Bhagwan Khairnar came out of their house. At that time Anil was armed with stick and informant saw all these facts in the light of bulb which was there at the backside of his house. At that time informant's father Dagu Gangurde asked Anil Khairnar, "तु आमचे घराचे पाठीमागे गवत उपटून टाकण्याचे कारणावरून आम्हा माणसांना न सांगता तु आम्ही घरी नसताना माझी सुन सरला हिला आज दुपारी शिवीगाळ का केली". On hearing such question, they got angry and they three started abusing them. At that time informant and his family members asked them not to abuse and they were trying to convince them. At that time Bhagwan Khairnar abused informant and caught informant and started pushing him. At that time Ashok Sadashiv Khairnar caught informant's father and he started pushing informant's father to one side and at that time Anil Ashok Khairnar assaulted with a stick on the head, mouth, stomach and back of informant's father and thereby caused him serious injury. Due to the said injury informant's father fell down. At that time Ashok Sadashiv Khairnar caught his father and pressed his father at that place. At that time Anil Khairnar took out pointed weapon which is used for breaking ice and with that pointed weapon accused Anil Khairnar thrust that weapon near left side chest of informant's father. At that time informant and his mother and his wife ran towards informant's father to help

informant's father. At that time Anil Ashok Khairnar assaulted with a stick on the head of informant. Anil Khairnar caught informant's mother Lilabai and Sonali Bhagwan Khairnar caught informant's wife Sarla and they assaulted them with slap and also abused them and threatened them. At that time informant's wife Sarla got herself released from the clutches of Sonali and went to rescue informant's father and at that time Anil Khairnar assaulted with a stick on the left hand of informant's wife Sarla. At that time other person gathered there and thereafter assailants ran away with motorcycle. Thereafter informant with the help of vehicle brought his father who was in unconscious condition initially to Dhomase hospital at Mangrul. Doctor of that hospital gave first aid treatment and asked them to shift informant's father to Government hospital at Chandwad. Thereafter they brought informant's father to Government hospital. Doctor examined informant's father and declared him as dead. So on the report of informant, aforesaid crime was registered.

4. It is argued by Ld. Advocate for accused that accused Nos.4 and 5 were already released on bail by this Court. Accused No.2 is granted bail by the Hon'ble High Court. There was no intention to kill deceased. Perusal of FIR shows that only one stab injury was given to deceased. But the perusal of PM report shows that there are multiple stab injuries found on the body of the deceased which does not correspond to the injuries mentioned in the FIR. It may take time for the disposal of the trial and accused No.2 is also granted bail by the Hon'ble High Court. It is therefore submitted that application may be allowed.

5. On the other hand, it is argued by the Ld. APP that presence of accused Nos.1 and 3 is there at the place of incident and that accused No.1 Anil gave stab injury with a Tocha (i.e. the pointed weapon) and that at that time accused No.3 pressed the deceased when the deceased fell down. Prima facie role of accused Nos.1 and 3 is there. It is therefore submitted that application may be rejected.

6. Considering the nature of allegations and the fact that Anil assaulted with a stick on the head, mouth, stomach and back of the deceased and that the deceased fell down at that time accused No.3 pressed him and caught him there on the floor and that at that time accused No.1 Anil gave stab injury with Tocha (i.e. pointed weapon) to left side chest of the deceased and that the perusal of post mortem report shows that opinion as to probable cause of death is death due to haemorrhagic shock due to stab injuries over chest and head injury due to blunt trauma over head which are sufficient to cause death in ordinary course of nature individually and collectively, all injuries are ante mortem in nature and fresh in duration i.e. within 24 hours, injuries over chest and abdomen are caused by pointed weapon or object, injury over head is caused by hard and blunt weapon or object or surface, I am of the view that prima facie involvement of both the accused are there in causing aforesaid injury to the deceased. Therefore, accused Nos.1 and 3 are not entitled to be released on bail. No such role is there of accused No.2 who is already granted bail by

the Hon'ble High Court and therefore, that bail order in respect of accused No.2 is not helpful to the petitioner Nos.1 and 3 Hence, I proceed to pass following order :

ORDER

1. Application is rejected.

Date : 19.09.2025

Place : Niphad.

(**Abdussalam A.A.Shaikh**)
Special Judge and
Additional Sessions Judge, Niphad.