

Sessions Case No. 79/2024
[CNR No. MHNS100014552024]

Chanchal Bhanudas Kshirsagar Vs.
State of Maharashtra through Chandwad Police Station

Order Below Exh.50

1. By filing this application applicant accused namely Chanchal Bhanudas Kshirsagar has prayed for bail in connection with CR No. 14/2024 for the offences punishable under Section 302, 120(b), 326, 324, 323, 504, 506, 143, 147, 148, 149 of Indian Penal Code and section 135 of The Maharashtra Police Act registered with Chandwad police station. This is his second bail application. His earlier bail application at Exh.40 was rejected by this Court by passing detail order dated 02.01.2026.

2. I have perused application and the say of Ld. APP and the say filed by the informant at Exh. 56. I have heard both the sides and the Ld. Advocate for the informant.

3. Case of the prosecution in brief as under :

(i) Informant namely Smt. Sheetal Raju Shinde lodged complaint to police that deceased Raju Kedu Shinde is her husband. The incident took place on 16.1.2024. On that day at about 10.00 a.m. Raju Kedu Shinde left the house to go to his office at Jai Janardan complex at Dugaon. On that day at about 1.30 p.m. informant and the co-wife of her husband Sunita were present in their house and at that time Raju Shinde made phone call to informant informing her that Chanchal Kshirsagar and his mother, brother and children and his wife and other persons came near the complex and that because of the old dispute they were abusing him. On hearing such fact on phone, informant and co-wife of her husband Sunita went through motorcycle to their complex

and at that time they saw that her husband Raju Shinde was surrounded by Chanchal Bhanudas Kshirsagar and his wife Vaishnavi Kshirsagar and his brother Vinod Bhanudas Kshirsagar and Vinod's wife Poonam and Chanchal Kshirsagar's two sons Raj and Sai and his younger brother Vinod Kshirsagar's daughters Nikita and Kashish and Chanchal's mother Babybai and Vaishnavi's nephew Piyush Sutar and that they all were abusing her husband. At that time she and the co-wife of her husband Sunita, her husband's brother's wife Rupa Satish Shinde and her cousin brother-in-law Ravindra Santosh Mali, her cousin brother Yogesh Prakash Sonawane, uncle Prakash Sukdeo Sonawane and Dhondiram Kisan Gangurde, Dinesh Jagdale and Prashant Thorat intervened and removed her husband from them and at that time they (i.e. the abusers) went away from that place.

(ii) On the same day at about 2.30 p.m. informant along with her family members were present near their complex and at that time Chanchal Kshirsagar armed with iron rod and Vinod Bhanudas Kshirsagar armed with wooden stick, Vaishnavi Kshirsagar, Poonam Vinod Kshirsagar, Babybai Bhanudas Kshirsagar and Raj Sai, Nikita, Kashish and Piyush Sutar came there by abusing them and they stated "राजु तुला जिवंत ठेवणार नाही" (i.e. Raju, we will not leave you alive) and by saying so they ran to assault her husband Raju Shinde. At that time informant, the co-wife of her husband Sunita, her husband's elder brother's wife Rupa and Prasanna Thorat tried to intervene. At that time Piyush Satish Sutar thrust some sharp weapon into the left side chest of Raju Shinde and also gave blow with that weapon to the left arm and left wrist of Raju Shinde and thereby caused serious injury. At that time Raj Chanchal Kshirsagar gave blow of knife to the middle portion of the head of Raju Shinde and thereby caused serious injury. At that time Prashant Thorat went there to intervene but he was also assaulted by

Piyush Sutar with his weapon to his backside. Her husband Raju Shinde fell down and his shirt was smeared with blood. At that time informant and the co-wife of her husband Sunita and her sister-in-law Rupa Satish Shinde, her cousin brother-in-law Ravindra Santosh Mali, her cousin brother Yogesh Prakash Sonawane and her uncle Prakash Sukdeo Sonawane and Dhondiram Kisan Gangurde, Dinesh Jagdale rescued informant's husband from those assailants and at that time those assailants ran away from that place. Thereafter Raju Kedu Shinde was brought to Suvidha hospital Chandwad for medical treatment and the doctor examined him and declared him as dead. Thereafter the dead-body of Raju Shinde was taken to Government hospital Chandwad and thereafter informant lodged her complaint to police and the aforesaid crime is registered.

(iii) Further statement of the informant was recorded on 20.01.2024. Her further statement shows that because of the brutal murder of her husband her mental condition was not good and therefore at the time of lodging complaint some facts remained to be stated by her and that after the funeral rites of her husband was over, she came to the police station to give her further statement. Her further statement shows that on 16.1.2024 at about 2.30 p.m. out of the accused persons who were armed with weapons and who came there with the preparation to kill her husband, Chanchal Bhanudas Kshirsagar and his elder brother Vinod Bhanudas Kshirsagar stated to their relative Piyush Satish Sutar "आम्ही राजाला पकडतो, तु वार कर". (We are catching Raj, you give blow.) Thereafter they both manhandled her husband and they both tightly caught both the hands of her husband and at that time Piyush thrust the sharp weapon to the left side chest of informant's husband and thereby caused serious injury. Thereafter Sai Chanchal Kshirsagar gave blow of knife in the middle portion of the head of

informant's husband and at that time Chanchal Kshirsagar gave blow of iron rod (Chimni) on the left hand and near wrist of informant's husband and thereby caused serious injury to her husband. In the meantime Vinod Kshirsagar assaulted her husband by fist and kick blows and he gave kick blow forcibly to the waist of her husband. Her husband fell down. At that time all the women whose names are mentioned in the complaint were instigating those four assailants "आज राजाला जिवंत ठेवु नका" (Today don't leave Raja alive) and thereby they were abetting and instigating. At that time she and co-wife of her husband made an attempt to rescue her husband. At that time Vaishnavi Chanchal Kshirsagar, Poonam Vinod Kshirsagar, Babybai Bhanudas Kshirsagar, Nikita Vinod Kshirsagar, Kashish Vinod Kshirsagar pushed them and manhandled them and also abused them.

(iv) In her further statement she further stated that in her complaint she mentioned that Raj Chanchal Kshirsagar gave blow of knife to the middle portion of head of her husband and thereby caused serious injury but Raj Chanchal Kshirsagar was not there. That person was Sai Chanchal Kshirsagar and that Sai Chanchal Kshirsagar gave blow of knife to the middle portion of head of her husband and thereby caused injury to her husband. At the time of lodging complaint her mental condition was not proper and therefore, she mentioned the name of Raj Chanchal Kshirsagar. But actually Raj Chanchal Kshirsagar was not present at the time and place of incident.

(v) Her further statement further shows that since last about 3 to 4 years the dispute in respect of land in between her husband at one side and Chanchal Bhanudas Kshirsagar and Santosh Sukdeo Elinje at the other side was going on. In that respect crimes were also registered against each other in the police station and that proceedings were also

going on in the Court and that because of that reason Chanchal Bhanudas Kshirsagar and Santosh Sukdeo Elinje got annoyed and that with the intention to take revenge, they in collusion with Chetan Uddhav Shevale published one defamatory video against her husband and her husband's family on social media through facebook in the first week of January 2024 and viralled that video. Thereafter on 11.1.2024 informant's husband inquired about that video from Chetan Shevale. At that time Chetan Shevale stated to her husband that he was not at all concerned with her husband but he further stated that Chanchal Bhanudas Kshirsagar and Santosh Sukdeo Elinje stated to him to do so and also supplied to him the documentary evidence. At that time her husband stated to Chetan Shevale about her husband's dispute with them and therefore Chetan Shevale told her husband that he would not send any post on social media against her husband and thereafter Chetan Shevale did not do anything. Chanchal Kshirsagar and Santosh Elinje came to know about this fact and thereafter Santosh Elinje posted following two posts on facebook :

- (i) "कोणीतरी घाबरला असेल किंवा नाही माहिती नाही पण आता स्वतः संतोष एलिनजे उदयापासुन लाइव येणार"
- (ii) "आज वर्षाचा पहिला सण दुश्मनालापण खावु दयावा. मकर संक्रांतीच्या हार्दिक शुभेच्छा".

Chanchal Bhanudas Kshirsagar and Santosh Sukdeo Elinje prior to Makar Sankrant hatched conspiracy to commit murder of her husband on the next day of Makar Sankrant and that thereafter they both after hatching the conspiracy committed the murder of her husband. She also produced the screen shot of the post viralled by Santosh Sukdeo Elinje on the facebook and she also lodged complaint against Santosh Sukdeo Elinje.

4. It is argued by the Ld. Advocate for the accused that this is the second bail application of the applicant-accused as his earlier bail application was rejected. Thereafter one co-accused namely Vinod Kshirsagar was granted bail by Hon'ble High Court on 08.01.2026 and therefore, this application for bail is filed. It is argued that co-accused Vinod whose role is similar to the role of applicant-accused is granted bail by the Hon'ble High Court and therefore, accused may be granted bail on the ground of parity. He is ready to abide by any condition. It is further argued that applicant-accused could have assaulted with iron rod on the head or chest or stomach of the deceased but it was not done by him since no proper medical treatment was given to the deceased in time the death of the deceased took place. It is further argued that as per the post mortem report the death was caused due to the injury caused by the knife. It is therefore submitted that application may be allowed. In support of his arguments he has relied upon the following authorities :

(i) **Gudikanti Narasimhulu and ors vs. Public Prosecutor, High Court of Andhra reported in 1978 AIR 429.** In this authority, the Hon'ble High Court has observed as under :

“The significance and sweep of [Art. 21](#) make the deprivation of liberty 'a matter of grave concern and permissible only when the law authorising it is reasonable, even-handed and geared to the goals of community good and State necessity spelt out in [Art. 19](#). Indeed, the considerations I have set out as criteria are germane to the constitutional proposition I have deduced. Reasonableness postulates intelligent care and predicates that deprivation of freedom- by refusal of bail is not for punitive purpose but for the bi-focal interests of justice-to the individual involved and society affected.

We must weigh the contrary factors to answer the test of reasonableness, subject to the need for securing the presence, of the bail applicant. It makes sense to assume that a man on bail has a better chance to prepare or present his case than one remanded in custody. And if public justice is to be promoted, mechanical detention should be

close to ours, the function of bail is limited, 'community roots' of the applicant are stressed and, after the Vera Foundation's Manhattan Bail Project, monetary suretyship is losing ground. The considerable public expense in keeping in custody where no danger of disappearance or disturbance can arise, is not a negligible consideration. Equally important is the deplorable condition, verging on the inhuman, of our subjails, that the unrewarding cruelty and expensive custody of avoidable incarceration makes refusal of bail unreasonable and a Policy favouring release justly sensible."

(ii) Lavghanbhai Devjibhai Vasava vs. The State of Gujarat reported in Criminal Appeal No.(s). 253 of 2018. In this authority, the Hon'ble Supreme Court has observed as under :

" This Court in the case of Dhirendra Kumar versus State of Uttarakhand [2015 (3) SCALE 30] : [2015 ALL MR (Cri) 1648 (S.C.)] has laid down the parameters which are to be taken into consideration while deciding the question as to whether a case falls under Section 302 IPC or 304 IPC, which are the following:

- (a) The circumstances in which the incident took place;
- (b) The nature of weapon used;
- (c) Whether the weapon was carried or was taken from the spot;
- (d) Whether the assault was aimed on vital part of body;
- (e) The amount of the force used.
- (f) Whether the deceased participated in the sudden fight;
- (g) Whether there was any previous enmity;
- (h) Whether there was any sudden provocation.
- (i) Whether the attack was in the heat of passion; and
- (j) Whether the person inflicting the injury took any undue advantage or acted in the cruel or unusual manner.

Keeping in view the aforesaid factors it becomes evident that the case of the appellant would fall under Section 304 IPC as the incident took place due to a sudden altercation which was a result of delay in preparing lunch by the deceased. The appellant picked up a wooden object and hit the deceased. The medical evidence shows that not much force was used in inflicting blow to the deceased. The prosecution has not set up any case suggesting that relationship between the the husband and wife was not cordial, otherwise. Manifestly, the incident took place due to sudden provocation and in a heat of passion the appellant had struck a blow on his wife, without taking any undue advantage. We are, therefore, of the opinion that it was an offence which would be covered by Section 304 Part-II IPC and not 302 IPC.”

(iii) Nanha s/o Nabhan Kha vs. State of U.P reported in 1993

Cri.L.J. 938. In para No.61 of this authority, Hon’ble High Court has observed as under :

“61. My answer to the points referred to is that if on examination of a given case it transpires that the case of the applicant before court is identical, similar to the accused, on facts and circumstances who has been bailed out, then the desirability of consistency will require that such an accused should also be released on bail. (Exceptional cases as discussed above apart). As regards the second part of the question, answer is that it is not at all necessary for an accused to state in his bail application that the bail application of a co-accused has been rejected previously.”

5. On the other hand, it is argued by the Ld. APP that this application is filed on the ground of parity but the role of Vinod and the applicant-accused is different. Applicant-accused assaulted with deadly weapon to the deceased and he was armed there with iron rod since prior to the said assault in consequence of the conspiracy hatched by all the accused persons to kill the deceased. It is therefore, submitted that application may be rejected.

6. It is argued on behalf of informant that this application is filed on two grounds i.e. one ground is of parity and other ground is of large period of incarceration of the applicant-accused. The ground of parity is not applicable to the applicant-accused as his role is not similar to the role of co-accused who is granted bail by the Hon'ble High Court. The authorities relied upon by the Ld. Advocate for the accused would not help the accused. It is therefore submitted that application may be rejected. In support of his arguments he has relied upon the following authorities :

(i) Sagar vs. State of UP & Anr. Reported in 2025 LiveLaw (SC) 1155. In para No.14 of this authority, the Hon'ble Supreme Court has observed as under :

“14. What flows from the above judgments, which have been referred to, only to the limited extent indicated above, is that the High Courts speak in one voice that parity is not the sole ground on which bail can be granted. That, undoubtedly, is the correct position in law. The word ‘parity’ is defined by the Cambridge Dictionary as “equality, especially of pay or position.” When weighing an application on parity, it is ‘position’ that is the clincher. The requirement of ‘position’ is not met only by involvement in the same offence. Position means what the person whose application is being weighed, his position in crime, i.e., his role etc. There can be different roles played - someone part of a large group, intending to intimidate; an instigator of violence; someone who throws hands at the other side, instigated by such words spoken by another, someone who fired a weapon or swung a machete - parity of these people will be with those who have performed similar acts, and not with someone who was part of the group to intimidate the other by the sheer size of the gathering, with another who attempted to hack away at the opposer’s limbs with a weapon.”

(ii) Rajesh Dhakal Rao vs. State of Maharani & Anr. Bail application No. 3043 of 2025. In para No.12 of this authority, the Hon'ble Bombay High Court has observed as under :

“What flows from the above decisions, as also upheld by the Supreme Court in **Sagar (supra)**, is that parity cannot be the sole ground on which bail is granted. Furthermore, there can be different roles played – someone part of a large group, intending to intimidate; an instigator of violence; someone who throws hands at the other side; someone who fired a weapon or swung a machete – parity of these people will be with those who have performed similar acts, and not with someone who was part of the group to intimidate the other by the sheer size of the gathering, with another who attempted to hack away at the opposer’s limbs with a weapon.”

(iii) Tarun Kumar vs. Assistant Directorate of Enforcement reported in AIR 2024 Supreme Court 169. In para Nos.18 and 19 of this authority, the Hon’ble Supreme Court has observed as under :

“18. The submission of learned Counsel Mr. Luthra to grant bail to the appellant on the ground that the other co-accused who were similarly situated as the appellant, have been granted bail, also cannot be accepted. It may be noted that parity is not the law. While applying the principle of parity, the Court is required to focus upon the role attached to the accused whose application is under consideration. It is not disputed in that the main accused Sh. Kewal Krishan Kumar, Managing Director of SBFL, and KMP of group companies and the other accused Devki Nandan Garg, owner/ operator/ controller of various shell companies were granted bail on the ground of infirmity and medical grounds. The co-accused Raman 19 Bhuraria, who was the internal auditor of SBFL has been granted bail by the High Court, however the said order of High Court has been challenged by the respondent before this Court by filing being SLP (Crl.) No. 9047 of 2023 and the same is pending under consideration. In the instant case, the High Court in the impugned order while repelling the said submission made on behalf of the appellant, had distinguished the case of Raman Bhuraria and had observed that unlike Raman Bhuraria who was an internal auditor of SBFL (for a brief period statutory auditor of SBFL), the applicant was the Vice President of Purchases and as a Vice President, he was responsible for the day-to-day operations of the company. It was also observed that the appellant’s role was made out from the financials, where direct loan funds have been siphoned off to the sister concerns of SBFL, where the appellant was either a shareholder or director. In any case, the order granting bail to Raman Bhuraria being under consideration before the coordinate bench of this Court, it would not be appropriate for us to make any observation with regard to the said order passed by the High Court.

19. It is axiomatic that the principle of parity is based on the guarantee of positive equality before law enshrined in Article 14 of the 20 Constitution. However, if any illegality or irregularity has been committed in favour of any individual or a group of individuals, or a wrong order has been passed by a judicial forum, others cannot invoke the jurisdiction of the higher or superior court for repeating or multiplying the same irregularity or illegality or for passing similar wrong order. Article 14 is not meant to perpetuate the illegality or irregularity. If there has been a benefit or advantage conferred on one or a set of people by any authority or by the court, without legal basis or justification, other persons could not claim as a matter of right the benefit on the basis of such wrong decision.”

(iv) Ramesh Bhavan Rathod vs. Vishanbhai Hirabhai Makwana Makwana (Koli) and Anr. Reported in AIR 2021 Supreme Court 2011. In para Nos.33 and 34 of this authority, the Hon’ble Supreme Court has observed as under :

“33. There is another aspect of this batch of cases which it is necessary to note. In the order of the High Court dated 22 October 2020 granting bail to Sidhdhraj Singh (A-13), there was a reference to the submission of the Public Prosecutor to the criminal antecedents of A-13 bearing on previous FIRs registered against him in 2017 and 2019. This aspect bearing on the criminal antecedents of A-13 has not been considered in the reasons which have been adduced by the Single Judge. In *Ash Mohammad v. Shiv Raj Singh*, this court has held that criminal antecedents of the accused must be weighed for the purpose of granting bail. That apart, it is important to note that the ground on which A-13 was granted bail is that in the subsequent statement dated 3 June 2020, the overt act which was attributed in the FIR was found to be missing. Having said this, the learned Judge observed that the order shall not be treated as a precedent to claim bail on the basis of parity in any other case.

34. We are left unimpressed with and disapprove of the above observation of the Single Judge. Whether parity can be claimed by any other accused on the basis of the order granting bail to A-13 ought not to have been pre-judged by the Single Judge who was dealing only with the application for the grant of bail to A-13. The observation that the grant of bail to A-13 shall not be considered as a precedent for any other person who is accused in the FIR on the grounds of parity does

not constitute judicially appropriate reasoning. Whether an order granting a bail is a precedent on grounds of parity is a matter for future adjudication if and when an application for bail is moved on the grounds of parity on behalf of another accused. In the event that parity is claimed in such a case thereafter, it is for that court before whom parity is claimed to determine whether a case for the grant of bail on reasons of parity is made out. In other words, the observations of the Single Judge which have been noticed above are inappropriate and erroneous. Moreover, as observed above in para 23, even while considering the ground of parity not only the weapon, but individual role attributed to each accused must be considered. We have dealt on this aspect of the matter in order to ensure that the position in law is corrected in terms as explained above. As we have noted earlier, bail was thereafter granted to Pravin (A-10) and Kheta (A-15) by orders dated 21 December 2020 on the ground of parity as claimed with the order dated 22 October 2020. The Single Judge observed that the Additional Public Prosecutor had not made any point of distinction. Subsequently, parity was the basis on which bail was sought in the case of Vanraj (A-16) who was granted bail on 19 January 2021. While granting bail, the Single Judge observed that :

“the learned advocates appearing on behalf of the respective parties do not press for further reasoned order”

A similar observation is contained in the order dated 20 January 2021 of the Single Judge granting bail to Dinesh (A-17). Finally on this aspect we would also advert to the order of the High Court dated 21 December 2020 granting bail to Vishan (A-6) which again contains a statement that the “advocates appearing on behalf of the respective parties do not press for a further reasoned order”. ”

7. Perusal of the FIR shows that applicant-accused was present when the incident occurred initially at 1.30 p.m. as the incident of abuses occurred initially at 1.30 p.m. and thereafter applicant-accused was also present at 2.30 p.m. when the main incident occurred and that applicant-accused along with other accused stated to the deceased that they would not leave the deceased alive and that thereafter they started assaulting the deceased and that further statement of the informant shows that on the date of incident at about

2.30 p.m. out of the accused persons who were armed with weapons and who came there with preparation to kill her husband, accused Chanchal Bhanudas Kshirsagar i.e. applicant-accused and her brother Vinod Bhanudas Kshirsagar stated to their relatives Piyush Satish Sutar, 'we are catching Raj, you give blow' and thereafter they both manhandled the deceased and they both tightly caught both the hands of the deceased and at that time Piyush thrust the sharp weapon to the left side chest of the deceased and that applicant-accused gave blow of iron rod on the left hand near wrist of the deceased. In this way, not only the active involvement of the applicant-accused is there in assaulting the deceased but his role is not similar to the role of Vinod because he gave blow of iron rod on the left hand near the wrist of the deceased. Under the circumstances, ground of parity is not applicable to the applicant-accused and he is not entitled for bail. Hence, I proceed to pass following order :

ORDER

1. Application is rejected.

Date : 28.01.2026

Place : Niphad.

(Abdussalam A.A.Shaikh)
Additional Sessions Judge,
Niphad.