

Order passed below bail application at Exh.34

(1). Present application is filed by applicant **accused no.4 Shubham Pramod Bharade** for releasing him on bail under Section 480 of BNSS for the offence punishable under Section 309(6), 126(2), 115(2), 3(5), 352 of BNS. Perused the application and say filed by the prosecution. Heard learned advocate Shri. Govardhane for applicant accused and learned APP for the prosecution.

(2). Case of the prosecution in short is that :

Informant namely Ashutosh Pandit Wagh lodged his report to police that on 31.1.2025 at about 10.30 to 11.00 a.m. he was carrying cash of Rs.3,50,000/- by riding his motorcycle and when he reached at Lonwadi, at that time, two persons came from his behind on one Unicorn motorcycle without having number plate and intercepted his motorcycle with that Unicorn motorcycle and thereafter they asked informant as to what he stated to his sister. At that time pillion rider of that Unicorn motorcycle alighted and he was wearing black colour T-shirt and he started abusing and assaulting informant by fist and kick blows. At that time, informant tried to defend himself but motorcycle rider of Unicorn motorcycle also started abusing and assaulting informant by fist and kick blows. At that time, the person who was wearing black colour T-shirt removed informant's yellow colour bag containing Rs.3,50,000/- which was hanged with the handle of the

informant's motorcycle and thereafter both assailants by sitting on the Unicorn motorcycle fled away with the cash of informant from that place. So informant lodged his complaint to the police and the aforesaid crime is registered.

(3). It is the contention of applicant accused no.4 that he is falsely implicated in the alleged offence. There is no recovery at the hands of accused. Applicant accused no.4 further submitted that he is ready to abide by all the conditions imposed by the court. It is further submitted that applicant accused is in jail since 01/02/2025. He further submitted that he is in jail for more than five months. The final report/charge-sheet has been filed by the police. The applicant accused has not filed application for bail at anywhere. His bail application is not pending at anywhere after filing of the charge sheet. There is substantial change in circumstances.

(4). Learned Advocate for applicant accused would submit that there is non-compliance under Section 47 and 48 of B.N.S.S. by the police at the time of arrest of applicant accused. Therefore, he prayed that application may kindly be allowed on the changed circumstances.

(5). Learned APP resisted the application and submitted that there is no change in circumstances to file the present application. He would submit that there is sufficient material against applicant accused. If the applicant accused will be released on bail he may tamper or hamper the prosecution evidence and witnesses. Therefore, he prayed that application may kindly be

rejected.

(6). I have gone through the contention and arguments advanced by both the sides. Offence levelled against applicant accused are triable by this Court. Applicant/accused is in jail since 01/02/2025. Considering the circumstances, there is no possibility of conclusion of trial in near future.

(7). The record shows that there is no criminal antecedent against applicant/accused. The applicant/accused is not habitual offender. The applicant/accused has undertaken his presence at the time of trial. The purpose of bail is securing presence of accused at the time of trial. No purpose would be served by keeping applicant/accused behind bars. There is rule and exception is refusal. Offence punishable under Section 309(6) of BNS is triable by the Magistrate. Therefore, taking into consideration the facts and circumstances it would be appropriate to release applicant/accused on bail bond subject to imposing appropriate conditions. In the result, following order is passed.

ORDER

1. Application is allowed.
2. Applicant **accused no.4 Shubham Pramod Bharade** be released on bail on furnishing P.B. of amount Rs.30,000/- and the solvent surety in the like amount with following conditions-

- a. Applicant accused shall not commit an offence similar to the offence of which he is accused.
 - b. Applicant accused shall not directly or 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 or tamper with the evidence.
3. The bench clerk is directed to send this order through e-mail to Jail Authority/jail officer, Nashik for the compliance of the direction given in the case of **Satendar Kumar Antil ..Vs.. C.B.I.(2022 Live Law(S.C.)577**.

Date : 28/07/2025

(P. D. Kolekar)
Judicial Magistrate First Class,
Pimpalgaon (B.).