



Sessions Case No. 109/2023
(CNR No.: MHPU14-002207-2023)
State of Maharashtra
Vs.
Shankar Gavhale & ors.

ORDER BELOW EXH. 63

1. This bail application has been filed by applicant/accused no.4 **Chandan @ Kalu Ashok Gavhale** under Section **483** of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 (**under Section 439 of Cr.P.C.**) for grant of bail, in connection with Crime No. **108/2023** for the offence punishable under Section 302, 307, 120-B, 143, 144, 147, 148, 149 r/w. 34 of the Indian Penal Code and Section 4(25) of Arms Act, registered with Baramati City Police Station, Dist. Pune.

2. **The allegations in the FIR are summarized as under:**

On 15/12/2022 the incident of assaulting was taken place between Mahesh Sunil Khandale (prosecution witness and son of victim Sunil Khandale) and accused no.3 Tanmay Kakde, accused no. 4 Chandan @ Kalu Gavhale (present applicant). On complaint lodged by Shankar Gavhale (accused no.1) offence was registered against Mahesh Sunil Khandale the brother of informant Komal Misal in present case. In said case after 13 days bail was granted to Mahesh Khandale. At that time accused no.1 told to mother (Asha Khandale) of informant that, she shall not allow Mahesh Khandale to come in said area otherwise he will be killed. The mother of informant requested accused no.1 but he has not listen anything, therefore Mahesh Khandale was sent to the house of his aunt at Village – Padali, Tal. Khandala, Dist. Satara. Even thereafter, the mother of informant requested the accused to allow

Mahesh Khandale to enter at his house, however again accused no.1 Shankar Gavhale gave threat that, if Mahesh Khandale came here, he will commit his murder.

3. Much time was lapsed, therefore on 02/03/2023 mother of informant called Mahesh Khandale at her house on 02/03/2023. At about 8.30 pm the informant and her other family members were taking dinner, the parent of informant were out of the house, at that time all of sudden, they heard loud talking of Asha Khandale the mother of informant, by hearing her voice informant, her husband came out of their house and noticed that the neighbouring persons accused no.1 Shankar Gavhale, accused no.4. Chandan Gavhale, other accused Akshay Waghmode, Aakash Waghmode were present before them. Accused no.4 holding sword, Akshay Waghmode was holding koyta, other accused were holding knife and stones. Aasha Khandale asked them why they came, on which accused no.1 Shankar Gavhale and accused no.2 Aarti Gavhale abetted their associates, taking out Mahesh Khandale from the house and committing his murder. Asha Khandale, Sunil Khandale the parent of informant and Mahesh Khandale were making requests to the accused, however the accused were not listening anything. Applicant/accused no.4 inflicted blow of sword on head of Sunil Khandale. Mahesh Khandale was coming out of his house, however informant locked him inside the house. The assailants i.e. accused no. 1 to 6 were coming towards the door of house, therefore Asha Khandale, Sunil Khandale, informant and her husband were restraining them at that time accused no.4 Chandan Gavhale inflicted blow of sword on head of Asha Khandale, on forehead of husband of informant. Accused no.1 and

2 were pelting pieces of bricks. Accused Akash Waghmode and Akshay Waghmode inflicted blows of scythe and knife on person of Sunil Khandale, again accused Chandan Gavhale inflicted blow of sword on Sunil Khandale, due to which he was fell on the ground then accused fled away from the spot. The informant opened the door of her house, then Mahesh Khandale came out of his house. Sunil Khandale was fell in pool of blood. After some time police reached to the spot and then victim Sunil Khandale was taken to Mahila Hospital, Baramati through police jeep. Accordingly, complaint of informant was recorded. On the basis of said complaint, above referred crime has been registered.

4. Applicant/accused no.4 has been arrested on 03/03/2023. Now he is in Judicial Custody Remand. Investigation is completed, charge-sheet is filed. Hence, he filed this bail application on the grounds raised in his application.

5. The prosecution has strongly resisted the application by filing its reply at counter-leaf and contents in it are nothing but replica of contents of FIR and replica of charge-sheet. Lastly, urged for rejecting the application.

6. Heard arguments of both sides. The learned counsel for the applicant/accused no.4 submitted that, it is first application for bail. There are total 6 accused in this case. Accused no.1 released on regular bail. Accused no.2 has been released on anticipatory bail by the Hon'ble Bombay High Court in Anticipatory Bail Application no. 2064/2024 vide order dated 07/08/2024. Accused no. 3 to 6 are under trial prisoners. Initially offence under Section 307 of IPC

was registered and after death of victim Section 302 of IPC has been added. He further submitted that, the supplementary statement of informant is contradictory to the contents of complaint. Even the statement of witnesses recorded under Section 161 of Cr.PC. and supplementary statements of the witnesses are contradictory. They have narrated different stories. The supplementary statements shows that, accused Tanmay Kakde was possessing sword and he has inflicted blow of sword. These material discrepancies goes to show that, the case of prosecution is not genuine. Major role in alleged incident played by accused Tanmay Kakde and no role attributed to this accused. The learned counsel for the applicant/accused no. 4 invited attention of this court even on statements of accused no. 3 and 4 recorded by investigation officer during interrogation and submitted that, considering material controversies this applicant/accused no.4 is entitled for bail. In support of his submission, he placed his reliance on decision in case of Sunny @ Lalla Vs. State (NCT) of Delhi, in Bail Application no. 1413 along with 1432 of 2021 decided on 25/05/2021.

7. As against this the learned A.P.P. submitted that, the contents of complaint and statements of witnesses categorically shows that, on account of previous enmity accused no. 1 to 6 hatched criminal conspiracy, thereafter formed an unlawful assembly, armed with deadly weapons sword, scythe, knife, stones, went to the house of victim with intention to kill Mahesh Khandale and when his father Sunil Khandale came for intervening these accused committed his murder inflicting blows of deadly weapons swords, knives on his person. The accused are having criminal

antecedents. If they are released on bail certainly they will threat informant, prosecution witnesses who are family members of the deceased. This incident occurred on the ground that, Mahesh Khandale, the prosecution witness was came to reside at his house, even after warning given by accused. There is terror of these accused in their locality. Nobody will come forward to depose again them, if they are released on bail. There is ample material on record showing active participation of this applicant/accused no.4 in committing murder of victim Sunil Khandale by inflicting blow of sword on his head. Thus, as per his submission it is not fit case to grant bail to the accused.

8. After hearing submissions of both sides, I have evaluated the recitals of FIR, statements of witnesses, copies of other documents filed along with charge-sheet. The contents of FIR and statements of eye-witnesses categorically shows that, this applicant/accused no.4 inflicted blow of sword on the head of victim Sunil Khandale. The statements of witnesses Rahul Sarjerao Misal, Asha Sunil Khandale, Mahesh Khandale, Vinayak Khandale and other witnesses shows that, there was earlier incident of assault between witness Mahesh Khandale and this accused in December 2022. Due to terror of accused and threat given by them Mahesh Khandale was residing in Satara District at the house of his aunt. On the day of incident he was came to his house, due to which these accused became annoyed and with an intention to kill him, hatched conspiracy, formed an unlawful assembly, armed with deadly weapons swords, knives, stones, thereafter reached to the house of victim and prepared to kill Mahesh Khandale, however when the parent and other relatives of Mahesh Khandale

intervened these accused and repeatedly requested forgive the act of Mahesh Khandale, however these accused not listen them and committed murder of Sunil Khandale by means of deadly weapons sword and knife. This accused no.4 is active role in committing murder of victim, by inflicting blow of sword on the head of victim. Not only this but on mobile phone, this accused kept the status “३०२ लवकरच ”. The statement of Pankaj Bhandari also shows presence of this accused and his active participation in this serious offence of committing murder of victim, for which capital punishment of death sentence or imprisonment for life has been provided. Thus, there is ample material on record, in respect of active participation of this accused in this serious offence of committing murder.

9. In case of **Sunny @ Lalla Vs. State (NCT) of Delhi, Hon'ble Delhi High Court** observed that, two statements seems to be contradictory on the point of weapon of offence as well as exact position at the spot of crime. There is no recovery of weapon, there is lack of evidence, hence granted bail. However, in present case as discussed herein above the contents of complaint as well as statements of prosecution witnesses categorically shows active role of this accused in this serious offence. The witnesses categorically testified before the investigation officer that this accused inflicted blow of sword on head of victim i.e. vital part of victim. Hence, the observations made in above cited case are not much helpful to the applicant/accused no.4 in present case. Not only this but considering conduct of accused the possibility of repetition of crime cannot be ruled out. Possibility of threatening informant, prosecution witnesses cannot be ruled out. Possibility of tampering

evidence, causing interference in the evidence of prosecution cannot be ruled out. Hence, this court is of the view that, the applicant/accused no.4 has not made out case for grant of bail. In the result, I pass following order.

ORDER

1. The Bail Application (**Exh.63**) filed in **Session Case No. 109/2023** of **accused No.4 Chandan @ Kalu Ashok Gavhale** in connection with Crime No. **108/2023** registered with Baramati City Police Station, Pune Rural, for the offences punishable under Section 302, 307, 120-B, 143, 144, 147, 148, 149 r/w. 34 of the Indian Penal Code and Section 4(25) of Arms Act, registered with Baramati City Police Station, Dist. Pune, **is rejected.**

2. Intimate to the concerned police station accordingly.

Baramati.
Date : 07/03/2026.

[B. D. Shelke]
Additional Sessions Judge, Baramati
Dist. Pune

