

**Spl. Case No. 190/2024**

CNR NO. **MHPU140033222024**

State of Maharashtra  
(Through Vadgaon Nimbalkar Police  
Station)



Vs.

Gautam Kakade and ors.

**ORDER BELOW EXH. 132**  
**(Passed on dt. 24.11.2025)**

1] This is an application under Section 483 of the Bhartiya Nagarik Surksha Sanhita, 2023 for grant of regular bail to the accused no.1 viz. **Gautam Shahaji Kakade** in respect of Crime No.283/2024, registered with Vadgaon Nimbalkar Police Station, for the offence punishable under Sections 302, 307, 143, 147, 148, 149, 352, 504, 506, 201 of the Indian Penal Code, 1860 and Section 3, 25, 29 and 30 of the Indian Arms Act, 1959.

2] Perused application and reply thereon filed by the Ld. APP. Heard Ld. Counsel for both the sides.

3] It is the case of the prosecution that victim Ranjeet had sold his bullock to the accused no.1 Gautam. On dt.27/06/2024 at about 11.00 pm at the house of accused no.1 Gautam there was dispute between the victim Ranjeet and accused no.1 Gautam regarding non payment of sell price of said bullock. As such, victim Ranjeet asked the accused no.1 Gautam to handover back the custody of his bullock. At that time, accused no.1 Gautam resisted

the same and called his brother i.e. accused no.2 Gaurav and other three accused over there. Thereafter, accused no.1 Gautam abused the victim Ranjeet and instigated the accused no.2 Gaurav to physically assault him. Thereafter, accused no.2 Gaurav killed the victim Ranjeet by firing a bullet towards the head of victim Ranjeet through a pistol possessed by him and owned by the accused no.3 Shahaji. As such, victim Ranjeet died due to said bullet injury. Hence, victim Ranjeet's wife lodged report about the incident to the concerned Police Station.

4] Ld. Counsel for the accused submitted that accused no.1 Gautam is seeking bail only on the ground of his illegal arrest. He submitted that accused no.1 Gautam was arrested on dt.01/07/2024. However, he was not communicated his grounds of arrest in writing at the time of his arrest. As such, there is violation of fundamental rights of accused no.1 Gautam as enshrined in Article 22(1) of the Constitution of India as well as S.50 and 50A of the Code of Criminal Procedure, 1973 (S.47 and 48 of Bhartiya Nagrik Suraksha Sanhita, 2023). Therefore, accordingly to him, he is entitled to be released on bail in accordance with law laid down by Hon'ble Apex Court and Hon'ble Bombay High Court in the following authorities :

<b><u>Sr. No.</u></b>	<b><u>Name of the Parties</u></b>	<b><u>Mode of Citation</u></b>
1.	Pankaj Bansal Vs. Union of India	(2024) 7 Supreme Court Cases 576, (Hon'ble Supreme Court)

2.	Prabir Purkayastha Vs. State (NCT of Delhi)	(2024) 8 Supreme Court Cases 254 (Hon'ble Supreme Court)
3.	Directorate of Enforcement Vs. Subhash Sharma	Spl. Leave Petition (Criminal) No.1136/2023 (Hon'ble Supreme Court)
4.	Vihaan Kumar Vs. State of Haryana and another	(2025) 5 Supreme Court Cases 799 (Hon'ble Supreme Court)
5.	Kasireddy Reddy Vs. State of Andhra Pradesh	2025 SCC OnLine SC 1228 (Hon'ble Supreme Court)
6.	Ajit Kisan More Vs. State of Maharashtra	Writ Petition No.3119/2025 (Hon'ble Bombay High Court)
7.	State of Karnataka Vs. Sri Darshan	Cri. Appeal Nos.3528-3534 of 2025 (Hon'ble Supreme Court)
8.	Mihir Shah Vs. State of Maharashtra	Cri. Appeal No.2195/2025 (Hon'ble Supreme Court)

5] He further submitted that accused no.5 Abhijit is also released on bail by Hon'ble Bombay High Court on the ground that he was not communicated about grounds of his arrest. Accordingly, he prayed to release the accused on bail.

6] Per contra, Ld. APP as well as Ld. Counsel for the informant submitted that accused no.1 Gautam was communicated about his grounds of arrest at the time of his arrest. Moreover, after his arrest, accused no.1 Gautam himself has immediately given discovery statement about concealment of weapon used in commission of offence and he has showed the spot where he concealed the said weapon. Accordingly, said weapon i.e. pistol was

seized. Therefore, accused no.1 Gautam was having due knowledge about the alleged offence and his role in the said offence. Moreover, he was represented by seven advocates at the time of his first remand before the Magistrate. It is pointed out that all the said seven advocates have also previously represented accused no.2 Gaurav, who is the brother of accused no.1 Gautam. Moreover, accused no.1 Gautam or his advocates have never raised any objection regarding non communication of grounds of arrest at the time of remand. Similarly, accused no.1 Gautam has filed the application before the concerned Magistrate for seizure of CCTV footage of the Hospital where victim Ranjeet was admitted for treatment on the ground that at that time accused no.1 Gautam was present over there to secure the immediate medical assistance for the victim Ranjeet. Similarly, accused no.1 Gautam has also previously moved the bail application vide Exh.8, which was rejected this court. Moreover, another bail application moved before Hon'ble Bombay High Court is already withdrawn by the accused no.1 Gautam. Therefore, no demonstrable prejudice is caused to the accused no.1 Gautam by not communicating the grounds of arrest in writing. He further submitted that law does not mandate communicating grounds of arrest in writing. Therefore, accused no.1 Gautam is not entitled to be released on bail merely on the ground that he was not communicated grounds of his arrest in writing. To fortify his submissions, he relied upon following authorities :

<b><u>Sr. No.</u></b>	<b><u>Name of the Parties</u></b>	<b><u>Mode of Citation</u></b>
1.	State of Karnataka Vs. Sri	Cri. Appeal Nos.3528-3534

	Darshan	of 2025 (Hon'ble Supreme Court)
2.	Kasireddy Upendar Reddy Vs. The State of Andhra Pradesh and others	Cri. Appeal No.2808 of 2025 (Hon'ble Supreme Court)
3.	Santosh s/o Baburao Jadhav Vs. The State of Maharashtra and ors.	Writ Petition No.1124/2025 (Hon'ble Bombay High Court, Bench at Aurangabad)
4.	Rohan s/o Mohan Shinde Vs. The State of Maharashtra and ors.	Criminal Writ Petition No.560 of 2025 (Hon'ble Bombay High Court, Bench at Aurangabad)
5.	Tirupati Vilas Podalwar Vs. The State of Maharashtra and ors.	Cri. Appeal No.761 of 2024 (Hon'ble Bombay High Court, Bench at Nagpur)

7] The gist of all the above-said authorities relied upon by Ld. Counsel for the accused is that at the time of arrest accused must be informed about grounds of his arrest in his own language and failure of the same would vitiate his arrest entitling him to be released forthwith. The underlying object behind it is to follow constitutional mandate as enshrined in Article 22(1) of the Constitution of India which shall enable the accused to know the basis of his arrest so as to enable him to put forth his defence before the judicial authority in front of whom he is going to be produced by the police.

8] In *Vihaan Kumar Vs. State of Haryana* reported in **2025 SCC Online SC 269** Hon'ble Apex Court held that the The information on grounds of arrest must be provided to the arrested person in such a manner that sufficient knowledge of the basic facts

constituting the grounds is imparted and communicated to the arrested person effectively in the language which he understands. The mode and method of communication must be such that object of the constitutional safeguard is achieved. It is further held that if the practice of communicating the grounds of arrest in writing is followed, the controversy about the non compliance will not arise at all.

9] In *State of Karnataka Vs. Sri Darshan* reported in **2025 INSC 979** Hon'ble Apex Court held that the Constitutional and statutory framework mandates that the arrested person must be informed of the grounds of arrest. However, no provision prescribes any specific form or insists upon written communication in every case. Judicial precedents clarified that substantial compliance with these requirements is sufficient, unless demonstrable prejudice is shown. It is also held that procedural lapses in furnishing grounds of arrest do not *ipso facto* render custody illegal or entitle the accused to bail unless serious prejudice is caused to the accused.

10] In *Vijay Madanlal Choudhary and Ors. vs. Union of India (UOI) and Ors.* reported in MANU/SC/0924/2022, 3 Judges Bench of Hon'ble Apex Court held that so long as the person has been informed about grounds of his arrest that is sufficient compliance of mandate of Article 22(1) of the Constitution.

11] In *State of Madhya Pradesh vs. Shobharam and Ors.* reported in **MANU/SC/0271/1966** Constitution Bench of Hon'ble Apex Court held as under :

*“Arrest is arrest, whatever the reason. In so far as the first part of Art. 22(1) is concerned it enacts a very simple safeguard for persons arrested. It merely says that an arrested person must be told the grounds of his arrest.”*

12] It is undisputed that accused no.1 Gautam was arrested on dt.01/07/2024. Therefore, legal position which stood as on dt.01/07/2024 was that unless any serious or demonstrable prejudice is shown to be caused to the accused, oral communication of grounds of arrest was sufficient compliance of Article 22(1) of the Constitution of India.

13] It is significant to note that recently i.e. on dt. 06/11/2025 in Mihir Shah versus State of Maharashtra reported in MANU/SC/1492/2025 Hon’ble Apex Court held that the grounds of arrest must be communicated in writing to the arrestee in the language he/she understands. In para no.58 of the said Judgment Hon’ble Apex Court clarified as under :

*“We are cognizant that there existed no consistent or binding requirement mandating written communication of the grounds of arrest for all the offences. Holding as above, in our view, would ensure implementation of the constitutional rights provided to an arrestee as engrafted Under Article 22 of the Constitution of India in an effective manner. Such clarity on obligation would avoid uncertainty in the administration of criminal justice. The ends of fairness and legal discipline therefore demand that this procedure as affirmed above shall govern arrests **‘henceforth’**.” (emphasis supplied).*

14] The word 'henceforth' used in above-said authority shows that requirement of supplying written grounds of arrest shall be applicable prospectively i.e. from the date of Judgment i.e. from dt.06/11/2025.

15] In view of aforesaid legal position, oral communication of grounds of arrest on the date of arrest of accused i.e. on dt.01/07/2024 cannot be said to be illegal unless it shows any serious prejudice is caused to the accused. Accordingly, I proceed to adjudicate the present application by keeping in mind the above-said legal position.

16] In the case at hand, perusal of record shows that on dt.30/06/2024 Assistant Police Inspector of Vadgaon Nimbalkar Police Station issued an order to Mr.Pandurang Kanhere, Police Sub-inspector, Vadgaon Nimbalkar Police Station to arrest the accused no.1 accused no.1 Gautam who is absconded since the date of commission of offence bearing Crime No.283/2024 as well as to recover the pistol used in the commission of offence and to trace out the unknown accused persons. Accordingly, on dt.30/06/2024 location of the accused no.2 Gautam was traced out on the basis of technical analysis and he was taken into custody by the Local Crime Branch and lateron handed over to the Vadgaon Nimbalkar Police. Accordingly, on 01/07/2024 at about 03.22 am he was arrested by the concerned Police personnel of Vadgaon Nimbalkar Police Station.

17] Perusal of column no.8 of the Arrest Panchanama of accused no.1 Gautam shows the recital that grounds of arrest were communicated to him and intimation regarding his arrest was given to his wife namely Rutuja Gautam Kakde. Record further reveals that on the same day he gave the discovery statement to the effect that on dt.27/06/2024 at about 11.00 pm there was dispute between him and deceased Ranjeet. At that time, his brother Gaurav committed murder of deceased Ranjeet with the help of a pistol, which he, thereafter, gave in his possession and he has concealed the same and he is ready to show the place where he concealed the said pistol. Accordingly, he lead the police to the place where he concealed the weapon of the offence and it was recovered at his instances and the same was seized by the police. Thereafter, he was produced before the concerned Magistrate and remanded to police custody.

18] Admittedly, accused no.1 Gautam was not holding licence to possess the said firearm i.e. pistol. Still, he was in constructive possession of the same as he was in control of the said pistol by means of its concealment. Therefore, aforesaid discovery statement itself shows the fact that prior to the production of accused no.1 Gautam before the jurisdictional Magistrate, he was aware of the fact that there was dispute between him and deceased and his brother has committed murder of the deceased Ranjeet and he possessed and concealed the weapon of the offence i.e. pistol, of which he is not having any licence. Therefore, it is clear that accused

no.1 Gautam was completely aware of the facts which lead to his arrest in connection with the alleged offence.

19] It is significant to note that accused was produced before the jurisdictional Magistrate on dt.01/07/2024 alongwith his brother namely Gaurav, his father namely Shahaji and other two accused. It is pertinent to note that on that day accused no.1 Gautam were represented by the same advocates, who represented other accused persons on previous date of remand.

20] In the said remand order Ld. Advocate of accused no.1 Gautam submitted that weapon of the offence is already seized and investigation is complete. Accordingly, he prayed to reject the prayer for grant of police custody. Therefore, it is clear that accused no.1 Gautam was duly represented by his advocate on the date when he was produced before the Magistrate for the first time. It is also significant to note that at the time of first remand Ld. Advocate for the accused no.1 Gautam has never raised the ground that accused was not informed about grounds of his arrest. Similarly, second remand order dt.04/07/2024 shows that accused no.1 Gautam was represented by his advocate. At that time also advocate for the accused no.1 Gautam has never raised the ground that accused no.1 Gautam was not communicated about his grounds of arrest. Said order further reveals that on dt.04/07/2024 prayer of investigating officer for further police custody of accused no.1 Gautam was rejected and he was remanded to Magistrate custody. This fact shows

that accused no.1 Gautam has got due legal representation before the Court.

21] It is undisputed that on dt.19/07/2024 accused moved an application before the concerned Magistrate to seize the CCTV footage of the hospital where deceased was admitted in injured condition. In the said application it was contended that accused are being prosecuted in CR No.283/2024 for the offence punishable under S.302,147,148,504,506, 352, 201 of Indian Penal Code, 1860 and S.3 r/w S.25 of The Arms Act, 1959. This statement on the part of accused no.1 Gautam also show that accused was fully aware of the facts or grounds for which he was arrested.

22] It is also significant to note that on dt.07/10/2024 accused no.1 Gautam has moved the regular bail application before this Court which came to be rejected on dt. 22/11/2024. In the said bail application, accused no.1 Gautam has not raised any ground that he was not informed about grounds of his arrest and it caused him any prejudice, what so ever. Similarly, he also moved another bail application (Bail Application No.5079 of 2024) before Hon'ble Bombay High Court which came to be withdrawn. Undisputedly, in the said bail application also, accused no.1 Gautam has not raised the ground of his illegal arrest.

23] It is only after accused no.5 Abhijit was directed to be released on the ground of illegal arrest on dt.11/08/2025, present accused no.1 Gautam moved this bail application on dt.27/10/2025.

At this juncture, it is necessary to note that in para no.14 of the Judgment dt. 11/08/2025 passed in Writ Petition No.3119 of 2025 Hon'ble Bombay High Court observed that column no.8 of the Arrest Form of accused no.5 Abhijit is completely left blank. On this background, Hon'ble Bombay High Court disbelieved the contention of the investigating officer and Panch witnesses that accused no.5 Abhijit was informed about grounds of his arrest at the time of his arrest. Similarly, it was also observed that communicating the grounds of arrest to the accused in writing is mandatory which was not fulfilled in the case of accused no.5 Abhijit. These facts show that so far as the arrest of accused no.5 Abhijit is concerned, it was the case of complete failure to inform the grounds of his arrest. However, as discussed earlier, case of accused no.1 Gautam stands completely on different footing.

24] At the cost of repetition, I must mention that column no.8 of the Arrest form of accused no.1 Gautam shows that he was informed about grounds of his arrest. Similarly, weapon of offence was recovered at his instance and as discussed earlier he was completely aware of the facts of the case. He was duly represented by his advocate who never challenged the legality of his arrest on the ground of violation of article 22(1) of Constitution of India. He also moved two different bail applications wherein he sought bail on merits of the case. Therefore, it is clear that no actual, real, and provable harm caused to the accused due to not being properly informed of the grounds of arrest. Therefore, no demonstrable prejudice appears to be caused to the accused no.1 Gautam.

Resultantly, as held in the case of *Sri Darshan Vs. State of Karnataka (cited supra)* procedural lapse on the part of investigating officer of not informing the accused grounds of his arrest in writing can become a sole ground to release the accused on bail. Therefore, with due respect to the ratio laid down in the authority of Hon'ble Bombay High Court in the case of Abhijit More Vs. State of Maharashtra (cited supra) and law laid down by Hon'ble Apex Court in the case of Sri Darshan Vs. State of Karnataka, I hold that authority of Hon'ble Bombay High Court in the case of Abhijit More Vs. State of Maharashtra (cited supra) is not helpful to the accused no.1 Gautam in the present matter.

25] In view of aforesaid facts and circumstances of the case, I hold that accused No.1 Gautam is not entitled to be released on bail. Hence, I pass the following order:

**ORDER**

1. Application Exh.132 is hereby rejected.
2. Matter be fixed for hearing on framing of charge.

**Baramati**  
Date : 24.11.2025

**(Hitendra Urmila Anilkumar Wani)**  
Additional Sessions Judge, Baramati