

**IN THE COURT OF ADDITIONAL SESSIONS**  
**JUDGE, BARAMATI, DIST.PUNE.**  
**(Presided Over by Surekha R. Patil)**

**Session Case No.163/2023**  
**CNR No.MHPU-1400-2536-2021**

**State of Maharashtra**

**Vs.**

**Shailesh @ Pintu Ashok Gaikwad**

**ORDER BELOW EXH.5**

(Delivered on this 10<sup>th</sup> December, 2024)

The applicant/accused **Shailesh @ Pintu Ashok Gaikwad** has filed this application for bail under the provision of **Section 483** of Bharatiya Nagarik Suraksha Sanhita (Here in after, in short, B.N.S.S. 2023) in connection with C.R.No.329/2023 for the offences punishable u/Secs.302 and 307 of the Indian Penal Code (In short 'IPC'), registered at Yavat Police Station, Tal.Daund, District Pune.

**2] Brief facts of the prosecution case are: -**

On 1/4/2023 the informant Kunal Kavde has filed report against accused that, on 31/ 3/2023 in evening at about 6.45 pm his labour Mukesh Yadav and Ramkuvar Yadav went for natures call, the accused assaulted his labour deceased Mukesh Yadav and Ramkuvar Yadav by iron sharp weapon. The accused gave blow on throat of Mukesh Yadav. When Ramkuvar Yadav tried to intervein, accused also gave blows on his

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head, chest hand etc. and cause injuries. Mukesh Yadav expired due to injury sustain to him.

**3]**            On the basis of his report, crime vide C.R.No.329/2023 for the offences punishable u/Secs.302 and 307 of the IPC, came to be registered at Yavat Police Station, Tal.Daund, District Pune against the accused. Investigating officer, after completion of investigation has submitted charge-sheet against accused. Accused/ applicant is in jail since 06/04/2023. Hence, he has filed this application for grant of bail.

**4]**            Ld. APP has filed reply on the overleaf of the application, contested the application and prayed for it's rejection.

**5]**            I have heard the Ld. Advocate for applicant/accused and Ld. APP.

**6]**            It is submission of Ld. Advocate for accused that, alleged incident took place o 31/03/2023. There is 15 hours delay in filing FIR. The statement of witnesses on record are copy paste. The statement of witnesses is not consistent with the statement of injured. According to injured, incident took place at 08:45 pm and unknown person assaulted. Accused has been arrested only on suspicion. He is in jail since 06/04/2023. Investigation is over and Investigating officer has submitted charge-sheet. The material on record is not prima facie sufficient to show involvement of accused

in this case. So, accused is entitled for bail.

**7]**            On the other hand, it is submission of Ld. APP that, there are four eye witnesses in this case. Death is homicidal. After arrest of accused, recovery has made under section 27 of Evidence Act. Offence committed by accused is serious. So, accused is not entitled.

**8]**            Perused material placed on record, on going through contents in FIR it reveals that name of accused has been stated by eye witness and injured in this case to the informant. As pointed out by Ld. APP, accused assaulted deceased and gave vital blow on his throat. Deceased died on spot. Injured eye witness has also sustained grievous injury. The evidence led by prosecution is sufficient to show prima facie involvement of accused in this case. Offence committed by accused is serious in nature. Punishment provided for the offence committed by accused is life imprisonment or death. On going through record, it reveals that accused has committed murder of deceased on suspicion that he is having otherwise relations or extra marital relations with his wife. So, motive behind commission of offence is also brought by prosecution on record.

**9]**            So far as delay in lodging FIR is concern, it appears from contents in FIR that the informant was at Bandra Mumbai when the incident taken place. On

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receiving information of assault, he came to village Khamgaon, first went to hospital paid bill. Then went to police station and lodge report of incident. Thus, the delay caused is properly explained by him.

**10]**      It is true that accused is in jail since 06/04/2023 but, the nature of offence and the way offence has been committed by him goes to show that if he released on bail the possibility of tampering of evidence and inducement to the eye witnesses also relatives of deceased cannot be ruled out. So, on that ground also, accused is not entitled to get bail.

**11]**      Having regard to the above-mentioned facts and circumstances of the case, I am of the opinion that, the accused/applicant is entitled for bail. I, therefore, pass following order: -

**ORDER**

- 1)**      Application Exh.05 is rejected.
- 2)**      Issue Intimation Letter to Jailar accordingly.

**sd/-xx**

Date: 10/12/2024.  
Baramati.

**(Surekha Patil)**  
Addl. Sessions Judge,  
Baramati.

**“CERTIFICATE”**

I affirm that the contents of this PDF file are same word for word as per original :-

**Name of Steno** : **Jagadish Narayan Kanki,**  
(Stenographer Grade - I)

**Court name** : **Mrs. Surekha R. Patil.**  
Addl. Sessions Judge, Baramati

**Judgment delivered on** : **10/12/2024**

**Judgment signed by PO on** : **17/12/2024**

**Judgment uploaded on** : **18/12/2024.**