

IN THE COURT OF ADDITIONAL SESSIONS JUDGE, KHED-RAJGURUNGAR,
PUNE

Order below Exh.07
In
Sessions Case No. 178 of 2024
(CNR. No. MHPU21-002159-2024)

State of Maharashtra
Through Chakan police station

... Complainant

Versus

Omkar Dagadu Kachole

... Applicant/Accused No. 1

Appearances:

Ld. APP Shri. M. D. Pandkar for State.

Ld. Adv.Shri. Y. P. Sable for applicant/accused No. 1

JUDGE : SHRI A.S. SAYYAD
Addl. Sessions Judge,
Khed-Rajgurunagar, Pune.

DATE : MAY 17, 2025

(DICTATED AND PRONOUNCED IN OPEN COURT)

:ORDER:

The applicant seeks his release on bail under Section 439 of Code of Criminal Procedure in connection with CR No. 38 of 2024, registered with Chakan police station, for the offences punishable under sections 302 r/w. 34 of Indian Penal Code, u/s. 4(25) of Arms Act and u/s. 3 and 7 of Criminal Amended Law.

2. Perused the application and reply of prosecution thereof. Heard both the sides at length of considerable time.

3. **Background facts** -

Based on the information by eye witness viz., Rahul Pawar and Vishal Pawar, the informant deceased's brother namely Prabhakar Pandit Pawar lodged an FIR with Chakan police station alleging therein that incident in question took place on 15/01/2024 at about 16.45 hrs. According to informant, deceased was his brother whereas the persons, who given information about the incident to informant, are his relatives i.e. persons from brotherhood. Applicant Omkar Dagadu Kachole is close relative of the informant and the deceased. On the fateful day of the incident, brother of the informant i.e. deceased had been to Ghat for bullock-cart practice. At the relevant time, Rahul Pawar had been to Ghat for watching practice of bullock cart. He was accompany Vishal Pawar at that time. At about 4.30 p.m. cousin brother of Rahul Pawar i.e. deceased also came for watching bullock card practice and at that time he was busy on his phone. After sometime at about 4.45 p.m. they heard screaming in loud voice, therefore, Rahul Pawar and Vishal Pawar had been to deceased and saw the deceased was lying on floor in injured condition. At that time, from the deceased, applicant and one unknown another person left by Splendor motorcycle from there. At that time applicant was armed with axe and another person was armed with sickle. These persons assaulted the deceased and fled away from there. Rahul Pawar and Vishal Pawar went to the deceased at that time, the deceased told them that applicant and Hanumant Naikwadi assaulted him by axe and sickle and fled away. The incident was informed to Shubham Pawar and Ganesh Pawar and the father of the deceased. They then came to spot and lifted the deceased in Bolero car and brought him Unicare Hospital for treatment, where the deceased declared dead. According to informant, present applicant is his relative and between them there was long standing dispute regarding landed property. Prior to incident also frequently dispute arise between them on land issue. To take revenge, the applicant along with co-accused with knowledge and intention brutally assaulted the deceased by axe and sickle

and committed his murder. The present applicant at that time armed with axe. Hence, this report.

4. According to applicant, he is innocent and had not committed any offence as alleged against him. He is falsely implicated in the present crime. He undertakes to abide any conditions imposed by this court. The applicant therefore prayed for allow the application.

5. According to prosecution, the applicant has committed serious offence, if the applicant is released on bail possibility of tampering or hampering the prosecution witnesses may not be ruled out. The prosecution therefore, prayed to reject the application. The brother of deceased also opposed to this application by reply stating there is apprehension to his family life if applicant is released on bail.

6. Having heard both the sides at the length of considerable time, I have carefully gone through record and proceeding and other material available on record. At the outset, it is important to mention that this Court has rejected bail application of co-accused viz., Hanumant Naikodi. Therefore, the co-accused approached to Hon'ble High Court by bail application No. 3799 of 2024 and the said bail application is allowed by the Hon'ble High Court on 28/02/2025. According to Ld. Advocate for applicant, there is a same role of co-accused Hanumant Naikodi in the alleged crime, and he was granted bail by the Hon'ble High Court. Since, there is a identical role of the present applicant, therefore, applicant be granted bail on parity ground.

7. It is a matter of record that the co-accused Hanumant Naikodi has granted bail by Hon'ble High Court as mentioned in foregoing para. The present accused also appears to be played similar role as like the co-accused Hanumant Naikodi who has granted bail by the Hon'ble High Court.

Investigation of the present crime is already completed and chargesheet is already filed and matter is committed for trial to this Court. Thereafter, this Court has framed charge against the accused and now matter is fixed for evidence of prosecution. On careful perusal of record and proceeding coupling with statement of witnesses, one thing is important which needs to mention here that the witnesses who had seen the accused while doing the alleged act, they in test of identification parade of the accused, unable to identify the accused persons as the same at the relevant time.

8. The present case prima facie appears to be based on the evidence of the first witnesses who had not identified the accused in identification parade. Statement of these witnesses though reflects the name of the present applicant in the alleged crime, but identification parade reflects contrary. Now the trial is commenced and the actual truth will come out by the direct evidence of the witnesses. Applicant appears to be arrested on 16/01/2024 and since he is in jail. Co-accused who allegedly played similar role has been granted bail by the Hon'ble High Court. Applicant claimed his innocence stating because of land dispute he was roped in false case. Applicant undertakes to abide any condition impose by the Court. There no appears any recovery or discovery remains at the instance of applicant. Therefore, without commenting on the merits of the case, no prejudice would be caused to prosecution if the present application is considered subject to certain stricter conditions.

ORDER

1. Application is allowed.
2. ***Applicant Omkar Dagadu Kachole*** shall be released on bail on executing P. R. Bond in the sum of ***Rs. 50,000/-*** surety in the like amount in connection with CR No. 38 of 2024, registered

with Chakan police station, for the offences punishable under sections 302 r/w. 34 of Indian Penal Code, u/s. 4(25) of Arms Act and u/s. 3 and 7 of Criminal Amended Law.

3. The applicant shall not misuse liberty in any manner.
4. Applicant/accused shall not directly or indirectly make any inducement and/or influence and or pressurize or cause any threat or give any promise to anybody acquainted with the facts of accusations made against the applicant so as to dissuade such person from disclosing such facts to the court or to the investigating agency and shall not tamper in any manner whatsoever with the prosecution evidence whatsoever.
5. The applicant shall remain present on every date in Court failing which an appropriate order will be passed against him.
6. The applicant shall report to police station once a month probably on First Monday of the every month till conclusion of trial.
6. In the event any of the condition herein being violated, the prosecution would be at liberty to seek for cancellation of bail.
7. The bail application Exh. 07 is disposed off accordingly.

Khed.
Date : 17/05/2025

(A. S. Sayyad)
Additional Sessions Judge,
Khed-Rajgurunagar, Pune.

CERTIFICATE

I affirm that the contents of the PDF file Judgment are same word for word as per original Judgment.

Name of Steno	A. S. Shivapurkar Stenographer Grade I
Name of Court	Shri. A. S. Sayyad District Judge 1 and Additional Sessions Judge, Khed-Rajgurunagar, Pune.
Date of Order	17/05/2025
Order signed by PO on	19/05/2025
Order uploaded on	20/05/2025