

Sessions Case No.17/2026
State Vs. Baburam Dattu Tembe.

ORDER PASSED BELOW EXH.7

1) The present application has been filed by the **accused Baburam Dattu Tembe**, u/s.483 of BNSS, 2023 for regular bail in the present case in connection with C.R. No.33/2026 registered at Goregaon Police Station, for offences punishable u/s.109(1) & 351(2) of BNS, 2023.

Prosecution case in brief is that :

2) On 17.02.2026 at around 05.30 p.m. while informant and victim Anurag playing badminton and his aunt Shradha and Anshika sitting on mat, at that time accused came with stick in his right hand and sickle in left hand came there and told them not to play there, but informant ignored him and continue their playing. Accused came in between them and with attempt to murder Anurag/victim assaulted him between his neck and throat and thereby caused deep grievous injury. Hence, the offence.

3) Ld. Advocate Shri. S. R. Kamble for accused submitted that, this is second bail application after filing of charge-sheet. Age of accused 76 years. No incriminating evidence is recovered at the instance of accused. There is no intention to kill victim, as there is no previous enmity. Victim is out of danger. Accused is local resident and there is no criminal antecedent against him. Further contended that considering his age, bail may be granted

on appropriate condition. In support of his contention he relied on case law of **Roshan Lal Vs. State of Haryana & Anr., Cri. Appeal No.2209 of 2011 & 2210 of 2011**, wherein the Hon'ble Supreme Court considered knowledge and intention in the offence punishable u/s.307 of IPC. Hence, prayed allowed bail application.

4) Investigation officer filed say(Exh.8) through Ld. APP Shri. J. D. Mhatre and strongly opposed bail application. It is submitted that, the assault on neck by sickle itself shows knowledge that death would be caused. Further, the depth of injury and place of attack shows intention to kill victim. During investigation weapon used in the offence has been discovered and seized under memorandum statement of accused. Informant and victim are eye witnesses to the incident who narrated incident in their own words, which shows gravity of offence. Informant and eye witnesses are from other State and accused is local resident. In case, accused released on bail he will threatened witnesses to leave said area. Hence, tampering with prosecution witnesses is very high. On point of subsequent bail application Ld. APP filed case law **Dipak Gupta Vs. State of Orissa, 2016 ALL MR (Cri.) Journal 482**, wherein the Hon'ble Orissa High Court observed that successive bail application can be filed only after change in circumstance and such change must be substantial one which has direct impact on earlier decision and not merely cosmetic changes which are little or no consequence. Thus, prayed for rejection of bail application.

- 5) Heard both the sides, perused application, say and charge-sheet.
- 6) Present application is second bail application after filing of charge-sheet. The filing of charge-sheet, completion of investigation and each day thereafter is change in circumstance. Thus, this subsequent bail application is maintainable after completion investigation and filing of charge-sheet.
- 7) It appears that accused allegedly carried stick in one hand and sickle in another hand. However, he assaulted victim by sickle and not by stick, it shows his intention to cause death. Further, accused has knowledge that such act would cause death of victim. From charge-sheet it appears that weapon of offence has been recovered from accused by his memorandum statement. Further, clothes of victim, weapon has been sent to the forensic lab for analysis and report is awaiting. Victim and informant are eye witnesses to the alleged incident. Age of accused can not be sole ground for grant of bail. Apprehension of prosecution about tampering of witnesses is plausible, considering accused is local resident and victim and eye witnesses are from other State. The case law **Roshan Lal** (supra) based on facts after full fledged trial, hence not applicable to the present case.
- 8) Thus, considering accusation, gravity of offence and tampering of evidence this Court not inclined to exercise

discretion in the favour of applicant/accused to release him on bail. Hence, I proceed to pass following order.

ORDER

Bail application is rejected.

Sd/-

Mangaon.

(M. K. Patil)

Date: 05.06.2026.

Addl. Session Judge, Mangaon.