

MHRG170127832019



ORDER BELOW EXH. 48
IN SESSIONS CASE NO.533/2019
PANVEL CITY C.R.NO.81/2019
THE STATE OF MAHARASHTRA V/S. GHANSHYAM SUNDAR
CHANDRAKAR AND OTHERS
(PASSED ON 02nd DAY OF MAY, 2025)

This application is on behalf of the applicant/accused No.1 – Ghanshyam Sundar Chandrakar and applicant/accused No.4 – Jitendra Ganesh Yadav vide section 483 Bhartiya Nagrik Surksha Sanhita, 2023 to enlarge them on bail.

2. The investigating officer filed reply vide Exh.49.
3. Points for the determination and my findings thereon for the reasons stated below ;

SR. NO.	POINTS	FINDINGS
I.	Whether grounds are justified to release the applicants/accused on bail vide section 483 Bhartiya Nagrik Surksha Sanhita, 2023 ?	Yes.
II.	What Order ?	The application is Allowed.

REASONS

4. Perused application, say filed. Heard learned advocate for the applicant/accused Shri.Indrajeet Bhosale and learned A.P.P. Shri.Y.S.Bhopi for the State.

AS TO POINTS NO. I AND II :

BRIEF FACTS OF PROSECUTION :

5. The present prosecution is murder of deceased Amarjitsing Rameshwardayal Pal, Age-41 years. The incident took place before 16.00 hours of 18.02.2019. Initially unknown burned torso and head of a dead body was found on 18.02.2019 and rest part of the body below to the waist and two legs in burnt condition were found. The brother of deceased namely Shersing Pal identified to the dead body. The incident took place on account of cash with the deceased to be taken away by all accused No.1 to 6. The deceased opposed to them from taking money from him that time accused No.1 to 6 in connivance with the help of wood required for centering work hit to the deceased on his body and head resulted into his death. The body of the deceased was kept on a firewood as such the body was partly burnt into two pieces.

6. On that count, the informant lodged the report dated 18.02.2019 at Police Station, Panvel City. The Police Station officer

registered Crime No.81/2019 for the offence under Section 302, 201, 34 of the Indian Penal Code against present applicant/accused and other accused.

7. The police arrested the accused/applicants on 21.02.2019 and produced before the Court on 22.02.2019. Initially, they were remanded to police Custody till 02.03.2019 and thereafter remanded to judicial custody as per order dated 02.03.2019. Presently, the accused/applicants are in Judicial Custody.

WHETHER GROUNDS OF BAIL ARE MADE OUT ?

8. On perusal of the charge-sheet, it appears that prosecution charge-sheeted accused No.1 to 6. Present accused are accused No.1 and 4. Rest accused No.2- Mallu Pujari, accused No. 3- Vikas Karande, accused No.5 – Moin Khatik and accused No.6 Babu Bishwas are released on bail by this Court as per order Dated 31.05.2020, 02.06.2020 and 05.02.2021.

9. Pursuant to that, the accused were released on bail are reluctant to appear hence non bailable warrants are issued against them from time to time including proclamations were issued. However there is no report filed as to the said process to compel the appearance of accused. Present applicants are behind bar since

22.02.2019 for about more than six years. Since the presence of rest accused are not secured as such the charge against only these two accused is not framed.

10. On perusal of the charge-sheet, it appears that the accused who are released on bail are the prime offenders and the involvement of the present applicants was to the extent of their presence. Further during course of identification parade, the witnesses have not identified to the present applicants and it was identified to the accused who are on bail. Therefore on the plea of parity present applicants deserve for bail.

11. The present case is based on circumstantial evidence. The circumstances are not against present applicants as to their involvement of the murder of deceased. In the light of foregoing, the trial is not yet commenced for want of presence of other accused coupled with other all accused are released on bail, hence by virtue of rule of parity and there is no identification to these applicants, on all these grounds, there is no justification to let them behind bar for further unending period.

12. Learned APP fairly conceded to extent these applicants on bail since other accused are on bail to whom witnesses have identified during course of identification parade. Hence, the applicants deserve for bail. I answer Point No. I in the affirmative.

Present applicants are from financial weaker section and provided them advocate from the panel of free Legal Aid to the under trial prisoners. Applicants requested for minimum cash bail. With this, I pass following order;

ORDER

1.	The application for regular bail vide Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 on behalf of the applicant/accused – applicant/accused No.1 – Ghanshyam Sundar Chandrakar and applicant/ accused No.4 – Jitendra Ganesh Yadav is allowed.
2.	The applicants/accused be released on bail on furnishing P.R. and S.B. of Rs.15,000/- (Rs. Fifteen Thousand) each with one surety in the like amount on the following terms and conditions ;
i.	The applicants/accused shall assist to Investigating Officer whenever called under written intimation.
ii.	The applicants/accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the accusations against him so as to dissuade them from disclosing

	such facts to the Court or to any police officer.
iii.	The applicants/accused shall not tamper prosecution evidence in any manner.
iv.	The applicants/accused shall attend hearing of the case without fail.
v.	The applicants/accused shall furnish address and mobile number of his two nearest relatives.
vi.	A soft copy of this bail order be forwarded to applicant/accused through Superintendent, Taloja Jail by e-mail for information in view of observation of Hon'ble Apex Court in the case of In Re Policy Strategy For Grant of Bail in SMWP (CRIMINAL) NO.4/2021, Dated 31.01.2023.
3.	Inform to concerned Police Station accordingly.
	Dictated and pronounced in Open Court.

Place : Panvel.

Date : 02.05.2025.

(K.G. Paldewar)
 Additional Sessions Judge,
Panvel

Arguments heard on	25 th Day of April, 2025.
Order delivered on	02 nd Day of May, 2025.
Dictated on	02 nd Day of May, 2025.
Transcribed on	02 nd Day of May, 2025.
Checked and signed on	02 nd Day of May, 2025.

CERTIFICATE

I affirm that the contents of this PDF file Judgment/Order is same and as per the original Judgment/Order.

Name of the Stenographer : K. N. Lokhande.
Name of the Court : Additional Sessions Court,
Panvel
Date of Order : 02.05.2025.
Order signed on : 02.05.2025.
Presiding Officer : K.G. Paldewar
Order uploaded on : 02.05.2025.