

(CNR No:MHSN040008932022)

Order passed below Exh.47 in Sessions Case No.76/2022

(The State of Maharashtra Vs. Ganesh (Barkya) Madhukar Chavan and anr.)

This is an application filed by the accused no.2 Mohan Sahebrao Chavan for grant of bail under Section 483 of the B.N.S.S. of Kasegaon police station for the offences punishable under Section 302 of I.P.C. The say of I.O. and learned APP has been called and the same has been filed by them below Exh.48.

2. Perused the application and say. Heard respective advocates at length.

3. In short, it is the case of the prosecution that, accused no.1 and 2 were the close friends of deceased Pravin Salunkhe. On the day of incident they all went to have liquor in the shop of Pravin Chavan. During their discussion they had some hited arguments which resulted in assault on the injured by both accused persons. They assaulted him by means of sugarcane as well as stone and the injured succumbed to those injuries. Therefore prosecution has been lodged against both accused persons.

4. Ld. advocate for accused has pointed out that accused persons were arrested and remanded to judicial custody after sufficient police custody. The present applicant was released on bail on dtd. 23.06.2023, but due to his absence he was arrested in execution of N.B.W. on dtd. 08.07.2024. Now accused no.1 is also absent. Accused no.2 i.e. applicant is in judicial custody since from dtd. 08.07.2024 and the trial could not be proceeded due to non appearance of accused no.1. The accused no.2 is unnecessarily suffering from delay in prosecution. There is no possibility of commencement of trial in near future. Inter-alia to this, it is stated that the case is based on circumstantial evidence

and there is no direct evidence to connect the accused with present crime. The accused is ready to assist the prosecution and face the trial in diligent manner. The charges levelled against the accused are vague. They cannot be proved on the touchstone of evidence. Moreover, accused is only earning member of his family. Hence looking to these circumstances, accused maybe released on bail.

5. Learned APP and I.O. has opposed the bail application on the ground that, offence is of serious nature. There is every possibility of threatening of prosecution witnesses and tempering with the prosecution evidence. Accused no.2 have played vital role in commission of offence. He was absent on the day of hearing and his absentee was considerably for long period due to which the trial got delayed. He committed breach of bail condition by not appearing before the Court for trial. Hence N.B.W. was issued by the Court and executed by the police. The accused, informant and deceased are resident of same village. So if the accused is released on bail, he came to dangerous to the life and limb of informant and other witnesses. The possibility of his abscondance cannot be overruled. Hence he may not be released on bail.

6. I have perused the record. The charge-sheet is already filed on dtd. 09.08.2022 and the trial was actually commenced. One witness is already examined by the prosecution. The trial could not proceed due to absence of accused persons. Hence N.B.W. came to be issued against both accused persons. Accused no.1 is still absent and notice to his surety as well as show cause notice to police station is already issued. It is not the case that no endeavor is made to secure the presence of absent accused. Undoubtedly, accused no.2 is in jail since from the period more than 1 year. However, there appears no deliberate delay on the part of prosecution. The process of securing accused no.1 is still

going on and if his presence is not secured within reasonable period, the recourse of separation of trial can be taken. The record itself shows that by giving leniency and considering the circumstances of the case, both accused were initially released on bail. However, both of them have misused their liberty by not attending the trial and causing delay in the proceeding. In said circumstances, if the accused is released on bail merely on the ground of absence of accused no.1 it would not be in the interest of justice and would be detrimental to the prosecution case. Moreover, the possibility of abscondance of accused and tampering with the prosecution witnesses cannot be overruled.

7. Hence looking to said circumstances, I am not inclined to release accused on bail. It is assured that the trial of accused no.2 will be expedited and necessary directions to that effect would be given to prosecution.

8. Hence, following order is passed.

ORDER

1. Application is hereby rejected.
2. Prosecution is directed to secure presence of accused no.1 and take all necessary steps to expedite the trial and complete the same within the reasonable period of three months from the date of this order.

Date: 07/03/2026.

(A. H. Kashikar)
Additional Sessions Judge,
Islampur.

CERTIFICATE

I affirm that the contents of this P.D.F. file are same, word to word, as per original order.

Name of the Stenographer : S.W.Pathan, Steno, (Grade-I)
Court Name : Adhoc District Judge – 1 & Addl.
Sessions Judge, Islampur.
Date : 07/03/2026.
Signed by P.O. on : 07/03/2026.
Uploaded on : 07/03/2026.