



IN THE COURT OF ADDITIONAL SESSIONS JUDGE, WAI
SESSIONS CASE NO. 13 OF 2023
CNR: MHST190004552023
(State of Maharashtra ..Versus.. Balu Bhagwan Kale)

ORDER BELOW EXH.69

(Passed on this 12th day of August 2025)

1] Instant bail application (**Exh.69**) has been filed by accused Balu Bhagwan Kale under Section 439 of the Criminal Procedure Code, inter-alia contending that prosecution is not taking steps for securing the presence of their remaining witnesses. Accused Balu Kale has been facing the trial for the offence punishable under Section 302 read with Section 34 of Indian Penal Code. He is behind bar since 18.07.2019. Witnesses of prosecution have not supported to the prosecution case. His learned Counsel submitted that accused Balu Kale has been falsely implicated in the case. On the basis of main these grounds, lastly it is implored for being released accused Balu Kale on bail.

2] Learned APP has strenuously opposed bail application and submitted that prosecution case is based on dying declaration of deceased Aishwarya Amol Kale, wherein she had made allegation about setting her on the fire by accused Balu Kale. Prosecution has examined four witnesses. Prior to this, bail application of accused Balu Kale was rejected by this Court. There is no change of circumstances. Serious allegations have been made against accused Balu Kale. Remaining important witnesses are yet to be examined. In such circumstances, if accused Balu is released on bail, then he would misuse the bail and would pressurize the prosecution witnesses

and will tamper the evidence of prosecution side. Some of the accused persons are still absconding. In case, accused Balu is released on bail, then he will help to the absconded accused persons. There is no merit in the bail application. Lastly, it is prayed to reject the bail application.

3] I have heard learned Counsel of accused Balu Kale and learned APP Shri D.S.Patil.

4] On perusal of record, it will find that prosecution has examined total five witnesses. Therefore, it cannot be stated that there is no progress in the prosecution case. On perusal of case papers, it will find that allegation has been made against accused Balu Kale is that, he poured kerosene on the person of Aishwarya Kale, who sustained 98% burn injuries. Consequently, she died. On perusal of record, it will also find that prosecution case is mainly based on dying declaration of deceased Aishwarya. Said dying declaration reveals that accused Balu had set Aishwarya on fire. No doubt, some of the witnesses appear to have been turned hostile. But that cannot be the ground for releasing the accused Balu Kale on bail, as prosecution case is based on dying declaration, which is important piece of evidence, according to prosecution. In such circumstances, it cannot be observed that prosecution is not taking steps to secure the presence of remaining witnesses. Record further shows that after examining five witnesses, prosecution has moved applications for issuing witness summons vide **Exh.71 & 72**. Therefore, there is no force in the argument of learned Counsel of accused that prosecution is not taking steps for securing the presence of their witnesses. For above stated all reasons, it is not desirable to release the main accused Balu Kale on bail. In case, he is

released on bail, there are every chances of misusing the same and pressurizing remaining prosecution witnesses. As such, I am not inclined to grant bail to accused Balu Kale. Hence, application deserves to be rejected. In the result, following order is passed.

ORDER

- 1) Application (**Exh.69**) stands rejected.
- 2) Prosecution is directed to take effective steps to secure the presence of their remaining witnesses.

WAI
Date: 12.08.2025

(R.N.Mehare)
Addl. Sessions Judge,
Wai