

ORDER BELOW EXH.14 IN SPECIAL (ATROCITY) CASE NO. 4 OF 2025

(CNR No. MHST21000031-2025)

(Phaltan Rural Police Station C.R.No.1090/2024.)

(The State of Maharashtra Vs. Kunal Chandrakant @ Bandu Madane & Ors.)

The accused no. 1 **Kunal Chandrakant @ Bandu Madane** and accused no. 2 **Saurabh Rajendra Londhe** have filed this application for regular bail under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (In short, 'BNSS') arising out of the C.R. No.1090/2024 registered at Phaltan Rural Police Station for the offence punishable Sections 109, 115(2), 352, 351(2), 351(3), 3(5) of Bharatiya Nyaya Sanhita, 2023 (In short, 'BNS') and Sections 3(1)(r), 3(2)(va), 3(2)(v) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (In short, "SC/ST POA Act") and Section 4, 25 of the Arms Act.

2] Allegations in the F.I.R. in short :

A] On 13.11.2024 at about 7:00 PM, the Informant and his two friends were on the ground of '*Palkhi Tal*' at Barad for exercises. When they were returning to home, all the accused including the applicant Panda Masugade rushed on the person of the informant and the witnesses. They started giving abuses. These accused were having knowledge that the informant is cousin Kartik and friend Prathamesh are belonging to Mahar and Maan community, the accused Kunal has thrown Sword towards Prathamesh by giving abuses. Therefore, Prathamesh and the Informant ran away. At

that time, Kartik was also trying to run away. But the accused Saurabh pelted stone on his leg. Therefore, he hidden himself in one pick-up vehicle. The accused also followed him. The accused Kunal and Saurabh were holding Sword while the applicant was holding wooden log by means of which they assaulted Kartik and they ran away.

B] Thereafter, Kartik went towards the informant and Prathamesh. Clothes of the Kartik were stained with blood. Kartik was whining. He narrated the informant that the accused Kunal has dealt two blows on his head and wo blows on left hand wrist. He also said that accused Saurabh dealt one blow on his head and they both also assaulted with Sword on his legs. The applicant assaulted on his left leg by wooden log. All of the accused also threatened him not to leave alive. Thereafter, Kartik was returned to the hospital by the informant and the other witnesses. After first aid he was shifted to Suvidha Hospital, Phaltan. Thereafter, he lodged the report.

3] Grounds for bail :

A] The accused are innocent. They have not committed any offence as alleged. They have been falsely implicated. No specific role given to the applicants-accused in the F.I.R. Allegations in the report are very vague and could not make any offence against the applicants-accused. They had no motive or intention on their part.

B] Custodial interrogation is not required of the applicants-

accused and nothing has to be recovered from them.

C] They are respectable citizen. They are farmers and have no criminal history. They are permanent resident of village Barad, Taluka Phaltan as mentioned in the address and hence there is no likelihood of their absconding.

D] They are ready to cooperate with the investigation machinery. They will abide by all terms and conditions imposed upon them by the Court. They will not misuse the liberty if enlarged on bail.

E] Investigation is completed and charge-sheet is filed. Accused no. 3 Pandurang is released on bail in Cri. Bail Appln. No. 254 of 2020 by order dtd. 04.01.2025. Therefore, both these applicants also prayed to consider ground of parity and prayed for bail.

4] Reply of the Informant/victim Exhibit 15 :

There is danger to his life at the hands of both the applicants. They are also residing in the same village at a short distance from his house. Therefore, if they are released on bail, they will harass him and therefore, he submitted that they should not be released.

5] Reply of the I.O. through APP Exhibit 22 :

The accused in furtherance of their common intention and even having knowledge of the Caste of the injured-informant aged

only 15 years, they caused him grievous injuries by Iron Swords and Wooden Logs.

6] Role of both the applicants-accused is evinced in the statement of the injured in his statement under Section 183 of the BNSS. Moreover, there is eye witness namely, Dada Shaikh who has seen both the applicants-accused while assaulting the informant and injured witness.

7] The applicants-accused have discovered the weapons used by them as per Section 23 (2) of the Bharatiya Saksha Adhiniyam, 2023 and so there evidence about their involvement in the crime.

8] Scary atmosphere is within the family of the informant and witnesses and also in the village Barad. Therefore, if the applicants-accused are released on bail, they will create more terror. Possibility cannot be ruled out that they will pressurize the informant and the witnesses. There will not be fear of law in the society. There is possibility of disputes in between two communities and of more serious cognizable offence, due to which there will be disturbance in law and order.

9] The accused Kunal is of criminal background as an offence bearing F.I.R. no. 1671/2023 of the offences punishable under Section 363 and 376(3) of IPC and Section 4 of the POCSO Act is registered against him at Phaltan Rural Police Station. The accused

Saurabh is also of criminal background and an offence bearing F.I.R. 199/2023 of the offences punishable under Section 354, 354(A), 504, 506 and 509 r/w.34 of the IPC and under Section 3(1)(w)(i)(ii), 3(1)(r)(s) and 3(2)(va) of the SC & ST (POA) Act is registered against him at Phaltan Rural Police Station. Therefore, the I.O. prayed to reject the application.

10] I have heard Ld. Advocate for the applicants-accused and Ld. APP for State. Perused F.I.R. and investigation papers.

11] Complicity of the applicants-accused is alleged in the F.I.R. As per allegations, both the applicants and the accused no. 3 rushed on person of the informant, his cousin Kartik and friend Prathmesh even they were having knowledge about their caste. The accused Kunal has assaulted with the Sword by throwing towards him. Therefore, they both ran away. At that time, while Kartik was running away from the spot of incident, the accused Saurabh pelted stones towards him and hidden in the pick up vehicle. At that time, all the accused rushed towards the said pick up vehicle. Both the applicants-accused were holding Sword and the accused Panda was holding Wooden log. They all entered into the pick up van and assaulted Kartik by means of Swords and Wooden log.

12] Injured Kartik has stated that the accused Kunal dealt two

blows of Sword on head and two blows on left hand wrist. The accused Saurabh also dealt a blow of Sword on his leg and head. The Injury Certificate of Kartik is also supporting the ocular evidence of both the informant and the injured Kartik. There is eye witness Aslam Dada Shaikh who has also stated the incident as above in his statement before the I.O. The eye witness Prathmesh has also stated the incident as per F.I.R. and the occurrence as above. Therefore, considering the said material on record, there is no weightage in the submission of the ground in the application that the applicants have not committed any offence, there is no specific role given in the F.I.R. and the prosecution case and that they had no motive or intention in commission of the above said crime.

13] The applicants-accused are claiming the bail on the ground of parity as the accused no. 3 Pandurang is also released on bail. However, there is allegation against accused Pandurang that he has dealt a blow of wooden log on the leg of Kartik. Therefore, role of the applicants-accused in commission of the crime to assault the injured Kartik on his head by means of Sword attract their vital role and it is not alike the accused no. 3 Pandurang. It is well settled that considering role of the accused in commission of crime, the ground of parity of bail has to be considered. In the above said available material on record, both the applicants-accused are not entitled for consideration of said ground.

14] The accused have chased the injured, informant and the witnesses in public place with deadly weapons Swords and Wooden Log and have also caused grievous injuries to Kartik. They are from the same village and residing in the same vicinity. Considering the above aspect if the applicants are released on bail, possibility cannot be ruled out that they will pressurize the informant and the victim as well as the witnesses.

15] In view of complicity of the applicant-accused in commission of the offence and the above reasons, I am not inclined to grant bail to them. Hence, I pass the following order.

ORDER

Application Exh.14 in Special (Atrocity) Case no. 4 of 2025 is rejected.

(Dictated and pronounced in open Court)

Phaltan.

Date : 21.05.2025

(Pravin V. Chatur)

Additional Sessions Judge, Phaltan.

Dictated On	21.05.2025
Transcribed On	21.05.2025
Checked On	21.05.2025
Signed On	21.05.2025