

order below Bail Application Exh.56 in Sessions Case
No.76/2023
(CNR No. MHWR010019022023)

(1) As per section 439 of Cr.P.C. (now 483 of BNSS) the applicant (accused No. 6 in Sessions Case No.76/2023) namely Piyush @ Suny Gajanan Waghade in Crime No.143/2023 registered with Police Station, Dahegaon (Gosavi) for the offences under Section 302, 120B r/w Sec. 34 of I.P.C. requested for regular bail. The applicant/accused No.6 is arrested on 04/10/2023.

(2) The allegations against the applicant and other co-accused No. 1 to 5 and 7 are that on 02-10-2023 and before that hatched criminal conspiracy to commit murder of deceased Ankita Bailbode, who was having love affair with co-accused No.5 Lucky Jagtap. In pursuance to the criminal conspiracy accused Nos. 1 to 4 on 02-10-2023 on two motorcycles went at village Dahegaon (Gosavi) from Wardha and have committed murder of deceased Ankita at her house by causing stab injuries. The allegations present applicant are that he was party to the criminal conspiracy and provided the knife to other co-accused which is used in commission of the murder. The applicant claims that he is innocent person and his earlier bail application No. 562/2023 was rejected on 06-01-2024 by this court. However, after rejection of the bail application there is no progress in trial. Therefore, on this ground the applicant requested for bail.

(3) The Investigating Officer, informant Satish Bailbode (the father of deceased Ankita) and Public Prosecutor opposed the bail applications by filing say Exh. 53, 54 and 71 on the grounds that the offences are serious, there is a material against the applicant to show his involvement in the criminal conspiracy to commit the murder as he attended the meeting wherein the conspiracy is hatched, the applicant has supplied the knife which is used by accused Nos. 1 to 4 while committing the murder of the deceased Ankita. Applicant is a friend of accused No. 5 who was in love affair with Ankita and since she was insisting accused No. 5 to marry with her by giving divorce his wife accused No.3. Therefore, the accused No. 5 his wife accused No.3, accused No. 4 who is a friend of accused No. 3 and wife of accused No.7, accused No.1, 2 and present accused No. 6 who are the friends of accused No.5 decided to commit the murder of Ankita, and then accused Nos. 1 to 4 have killed the deceased Ankita. If the applicant is released on bail, he is likely to pressurize the witnesses.

(4) I heard learned Adv. Shri S. S. Chandan for the applicant/accused, and P.P. Shri G. V Takwale for the prosecution. Perused charge-sheet.

(5) While rejecting earlier Bail Application No. 562/2023 filed by present applicant I have already discussed in paragraph No. 19 of the order dt. 06-01-2024 that as

“Apart from their direct evidence of witnesses Anna and Ritik, prosecution further has collected video footage in the mobile of accused No.6 which shows accused No.6 while removing the knife from its cover which was purchased by him on 22/07/2022 on flipkart. The purchase bill and screen shots taken from account of the accused on flipkart site shows that he gave order to purchase the big knife and the photo of the knife purchased as appearing in the print out taken from account of accused with flipkart shows that the knife purchased by present accused No.6 is the same knife which was found near the motor-cycle where the accused were caught hold on the way. This knife is having blood stains and it is the same knife purchased by present accused No.6 on flipkart site. Thus, there is a reason to believe the case of the prosecution that present accused No.6 supplied the knife to accused No.5 who in turn handed it to accused No.1 which is used in the crime. As such present accused No.6 has handed over his knife to other co-accused to commit the murder of deceased Ankita. Therefore, in my view prima facie there is material to show involvement of accused No.6 in commission of the offence punishable under Section 120B of I.P.C”.

(6) Apart from supply of the knife by present accused, there is a direct statement of witnesses Anna Chamat, Ritik Balpande and Yash Nagrale, who have told that present accused No. 6 was present other accused Nos. 1, 2, 3, 5 on 02-10-2023 at the house of accused Nos. 3 and 5 where the

conspiracy to kill the deceased was hatched. Further the CDR record of mobile No. 7558229175 which is registered in the name of mother of present accused Piyush was being used by the applicant and it shows that on or about the day of incident constantly present accused was in contact with other co-accused. Therefore, there is sufficient material to show the role of present accused as a conspirator and he played active role in the conspiracy by supplying the knife which is used in commission of murder of deceased.

(7) The accused after rejection of his earlier Bail Application No. 562/2023 on 06-01-2024 also filed Criminal Application (BA) No. 118/2024 before the Hon'ble High Court which was withdrawn on 08-08-2024. This fact has not been mentioned in the application, but only in the course of argument on query made by this court advocate Chandan submitted that the Bail Application filed before the Hon'ble High Court had been withdrawn.

(8) It is also worth notable that present application is filed claiming change in circumstances that there is no progress in trial. However, the record shows that present accused as well as other co-accused are prolonging the trial. They are not engaging their lawyer and the lawyers who are engaged are only filing bail applications and not ready to conduct the trial. The accused are also not ready to accept the services of defence counsel appointed through LACD. (9)

(9) Present advocate Shri S. S. Chandan for accused No.6 yesterday refused to cross examine the informant (PW-1). The examination chief of PW-1 Satish Bailbode (informant) is recorded on 04-03-2025, but on 04-03-2025 advocate for accused Nos. 1, 2, 3 and 5 filed adjournment application on the ground that he could not made preparation to conduct the cross-examination. Therefore, the matter was adjournment and posted on 06-03-2025 for cross-examination, but on 06-03-2025 advocate Chandan shown his inability to conduct cross-examination on behalf of accused No.6. Applicant (accused No.6) also told on VC that he has engaged advocate S. S. Chandan only on the purpose of bail application and he should not cross-examine the witness and he has engaged another advocate Shri U. P. Kashikar. Thereafter, advocate Kashikar was called, who told that the mother of present accused approached him, but again took away the file saying that they have to engage another lawyer. This is the only recent incident which happened yesterday has been highlighted by me. There are several such incidents which show that the accused are only prolonging the trial and trying to claim bail by saying that there is no progress in the trial.

(10) The accused themselves are trying to prolong the trial only to get bail. Further, the accused are in jail only since one and half year and such delay in serious cases like murder cannot be ground to release the applicant on bail.

:: 6 ::

Therefore, in my view the applicant (accused No.6) is not entitled for bail. In the result, I pass following order.

Order

Bail Application Exh. 56 is rejected.

Date : 07/03/2025

(N.B. Shinde)
Addl. Sessions Judge,
Wardha.

:: 7 ::

CERTIFICATE

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

(S. M. Puri)
Stenographer (Grade-2)