

**IN THE COURT OF SESSIONS JUDGE, WASHIM.**

**Order Below Exh. 40**

(Dated 16/02/2026)

1. By the present application, the accused No. 5 Vikky @ Pravin Kailas Ghuge is praying for discharge of the accused under Section 109 of BNS, 2023 in crime No. 638/2025 registered by Washim (city) police station.
2. It is the case of the complainant that he is a police head constable and was deputed on Bandobast duty and one Mukesh @ Bablu Raju Gaikwad was externed and he was seen in the said procession. When he was approached, he had dispute with the police persons and was trying to run away followed by the complainant and at that time, someone from the crowd assaulted with knife on the back and the assailant was seen to be Vikky Raju Gaikwad along-with 7 to 8 persons and they stated as to how they can catch Bablu and had scuffled with the complainant and others and at that time, Mukesh and other accused came there together, he gave threat stating that “तु मला पकडण्याकरीता आला आहे न, थांब आज तुला जीवाने मारुनच टाकतो” and saying so, Bablu took knife from his companion and assaulted with intention to kill and while evading, complainant fell down and suffered injury on his right leg. The other accused some of them away and some were caught hold up. Based on these allegations, complaint have lodged and accused came to be arrested.
3. It is the case of the accused that offence punishable under Section 109 is not made out. Injuries are not serious and they are minor in nature, the query to the weapon indicates that the injury was not with force and considering the same, intention to kill is absent.

Considering the same, it is contended that provisions of Section 109 are not attracted.

4. Heard Ld. APP. He vehemently submitted that before the assault, there is specific allegations of intention to kill and so also, the complainant states that assault was with intention to kill and only because the complainant fell down while evading, he suffered those injuries. Considering nature of allegations, offence is made out. Hence, prayed for rejection of application.
5. On considering the charge-sheet as well as nature of allegations, the complainant is said to have suffered injury on his leg admeasuring 4 x 2 x 1. The Medical Officer who treated has stated that it was with mild assault. Prima facie from these allegations may be injury is not serious or on vital part, but apparently the complainant who is also police head constable states that it was or with an intention to kill which was evaded resulting in the said injury. At present, the complainant speaks of alleged intention both express as well as followed by action of assault. In such circumstances, at this stage, one cannot states that there was no intention to kill. Hence, I pass the following order -

**ORDER**

- 1) Application at Exh. 40 is rejected.
- 2) The prosecution to furnish draft charge.
- 3) Application stands disposed off, accordingly.

Date: 16/02/2026.

**(Anil Subramaniam)**  
Sessions Judge, Washim.