

**CNR No. MHNS010053092022**

**Order below Exh.1 in Cri. Bail Application No. 1231/2022.**  
( Harichandra Kashinath Bhandari Vs. State )

This second bail application is moved by the applicant-accused Harichandra Kashinath Bhandari, after filing of charge-sheet, under section 439 of Cr.P.C. in connection with CR No.9/2022 registered with Igatpuri Police Station, Dist. Nashik for the offence U/s. 302,307,452,427,143, 147, 148, 323, 504, 506 r.w.s. 149 of the Indian Penal Code, under section 4/25 of the Arms Act and section 37(1)(3) r.w.s.135 of the Maharashtra Police Act.

2. It is stated in the application that, the applicant-accused was arrested on 24.2.2022 and since then he in jail. The name of the present applicant-accused is mentioned in the FIR alongwith other accused, but after investigation as there is no evidence against of accused Sonu Gupta, Mobin Shaikh and Sagar, police have submitted report under section 169 of Cr.P.C and their names are deleted from the charge-sheet. The applicant-accused was not present on the spot at the time of incident and he was in his field and has falsely involved in the crime. The applicant-accused was not seen the CCTV footage on the spot. He has not committed any offence. The investigation is completed and charge-sheet is filed in the court bearing RCC No.56/2022. The other accused are released on bail. Therefore, no purpose will be served by keeping applicant-accused behind the bar. He is local resident and ready to abide all conditions laid down by this Court, these and other grounds set out in the application, prayed to allow the application.

3. Application is opposed by the State by filing report vide Exh.5 and 6.

4. Perused the record. Heard, both the parties.

5. The learned counsel for applicant-accused Shri. R.D. Avhad has submitted that the applicant-accused has not committed any offence. The applicant-accused has not committed any offence nor he was present on the spot at the time of incident. The other accused are released on bail and therefore, on the ground parity applicant-accused is entitled for bail. The applicant-accused released on parole for medical treatment and the medical papers are filed on record. Therefore, considering this fact, the applicant-accused may be enlarge on bail on terms and condition laid down by this court. He relied on **Mr. Gautam Volvoikar s/o Laxman Volvoikar Vs State, 2020(2) AIR Bom.R. (Cri) 351.**

6. On the other hand, learned APP Shri. R.M. Baghdane has submitted that the said incident had occurred on day time, 30 to 40 persons have collectively assaulted the son of first informant and his friends and in the said incident one Rahul Ramesh Salve was murdered and the son of first informant sustained serious injuries. The present applicant-accused was released on parole from Kalyan and was directed not to enter in Igatpuri, even though he has violated the condition and committed the crime. The applicant-accused is habitual offender. There is sufficient evidence against the applicant-accused to connect with the present crime. Therefore, prayed to reject the application. He also relied on **Neeru Yadav Vs Sate of U.P. & Anr., 2015 ALL SCR 3514** and **Brijmani Devi Vs Pappu Kumar and others, decided on 17.12.2021.**

7. I.O. is present with case papers.

8. On perusal of the charge-sheet, the name of the

applicant-accused is mentioned in the FIR itself, who assaulted the deceased with deadly weapon. The version of first information is corroborated by injured witness Francis, wherein the name of applicant-accused is appearing. The recovery panchnama of the weapons used in commission of the crime is at the hands of present accused. The release order below Exh.236 in Sessions case No.240/2015, dated 8.12.2021 containing special condition in terms of clause-1d that the accused is directed not to enter the entire Nashik District during period of his temporary bail. The statement under section 164 of Cr.P.C. recorded by the learned JMFC, Igatpuri of Asha Pastric Manwel the first informant also reflects the role played by the accused. Thus, the accused has played leading role in commission of the present crime. Apparently he has deliberately violated the condition of bail laid down by the learned Additional Sessions Judge, Kalyan. When there is eye witness stating the fact that they have seen the accused, who had inflicted knife blows on the deceased and therefore, the CCTV footage loses its importance. So far as ground of parity is concerned, considering the role played by the accused, he is not entitled for the ground of parity therefore, the ratio laid down by the learned counsel is not helpful to him in the present case. Therefore, the learned APP has rightly relied upon **Neeru Yadav Vs State of U.P. (surpa)**, wherein it is held that,

*“ A history-sheeter involved in the nature of crimes we have reproduced hereinabove, are not minor offences, so that he is not to be retained in the custody, but the crimes are of heinous nature and such crimes, by no stretch of imagination can be regarded as jejune. Such cases do create a thunder and lightning having the effect potentiality of torrential rain in an analytical mind.”*

9. In the case in hand, admittedly the accused is facing trial in connection with CR 283/2015 registered with Mahatmaphule P.S. Kalyan for the offence punishable under section 302,307,452,143,144,147,148,363,342,323,504,506 of IPC and was Under trial prisoner in Kalyan Central Jail. The learned counsel for accused submitted that, police have already filed B and C Summary reports against the co-accused Pavan @ Sonu Gupta, Mobin Abdul Rafique Shaikh, Sagar Vishnu Dalbhagat, Somnath Shankar Kadu, Kishor Shankar Kadu, Namdeo Walu Mhasane, Vitthal Keru Bhagade, Balu Vitthal Gangurde and out of these accused Sonu Gupta, Mobin Shaikh, Sagar Dalbhagat were shown as a co-accused in the FIR itself and therefore, strong claude of suspicion gathered over the narration of the first informant. However, though the police have filed appropriate report against the other accused, but, the role of the present accused is on the higher pedestrial and there is ambiguity so far as involvement of the present accused is concerned. Therefore, the learned APP has rightly relied upon **Brijmani Devi Vs Pappu Kumar and another (supra)**. Hence, the present bail application is devoid of merit. Accordingly, following order is passed.

**ORDER**

1. Bail application No.1231/2022 is hereby rejected.
2. Inform to concern police station accordingly.

Date- 19.11.2022

( M.A. Shinde )  
Additional Sessions Judge-9,  
Nashik.