

**CNR No. MHNS010006352022**

**Order below Exh.1 in Cri. Bail Application No.221/2022.**  
( Somnath Shankar Kadu and others Vs. State )

The present application is moved by the applicants-accused 1) Somnath Shankar Kadu and 2) Kishor Shankar Kadu 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, section 37(1)(3) r.w.s.135 of the Maharashtra Police Act and section 4/25 of the Arms Act.

2. It is stated in the application that, incident took place on 28.1.2022, the offence registered on 29.1.2022. The present applicants-accused were arrested on 30.1.2022 and they were granted Police custody till 3.2.2022 and since then they are in Magisterial custody. Applicants-accused have stated that prosecution has collected CCTV footages from the road side and the applicants-accused are not appearing in that footages. Applicants-accused were arrested on suspicion. They were granted police custody, but nothing incriminating articles were recovered from them. Their antecedents are clean. There is no overt act attributed to them. They will not abscond, these and other grounds set out in the application, prayed to allow the application.

3. Application is opposed by the State by filing report.

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

5. The learned counsel for applicants-accused Shri. Sameer Inamdar has submitted that from the investigation conducted so far the role of the applicants-accused is not clear, even on perusal of the FIR there is no overt act attributed to them.

Therefore, he prayed to allow the application During the course of argument he has relied upon two bail orders passed by the Hon'ble Bombay High Court in **Sandip Chandrakant Pawar Vs State in Criminal Bail Application No.437/2019** decided on 7.2.2019 and **Krushna Dadaram Shinde Vs State in Criminal Bail Application No.2783/2018** decided on 22.1.2019.

6. On the other hand, learned APP Shri. Suryavanshi 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. He further submitted that investigation is in progress, only 7 accused have been arrested out of them two are Juveniles. The rest of the accused are to be arrested. Therefore, prayed to reject the application.

7. I.O. is present. He submitted that the mobile track record of the accused has shown that they were present on the spot at the relevant day, time and place.

8. On perusal of the record, particularly the FIR shows that the incident took place on 28.1.2022 at about 3.30 to 3.40 p.m. on that day one another incident had occurred in the morning time at about 9.30 to 10.30 a.m. The 10 to 15 motorcycles riders were proceeded towards the house of first informant. They pelted stones on the house and thereafter they left the said place. Therefore, the first informant alongwith other persons accompanied to her had approached to Igatpuri police station to report the matter, however, while she was reporting the said

incident to police, they came to know that the persons from Nandgaon sado village, Tal. Igatpuri, Dist. Nashik were proceeding towards her house. They were holding stick, sword, knife in order to attack her family members. Therefore, first informant and other persons accompanied to her were proceeded to the house from the police station. However, they were obstructed by the said mob and brutally assaulted and in the said incident Rahul Ramesh Salve scummed to the injuries and Francis @ Kavu Patrik Manvel had sustained serious injuries alongwith other persons accompanied to the first informant. The mob also damaged six motorcycles and three vehicles and houes in the area by pelting stones.

9. It is also matter of record that two Juveniles were apprehended and produced before Juvenile Justice Board, five accused persons including present applicants-accused were arrested by police, rest of the accused persons are still absconding. Police are searching for them, investigation is in progress and is at its initial stage. So far as non mentioning role of applicants in the FIR is concerned, recently it is held by the Hon'ble Supreme court in **M/s. Neeharika Infrastructure Pvt. Ltd. Vs State of Maharashtra and others in Criminal Appeal No.330/2021** that,

*“First information report is not encyclopedia, which must disclose all fact in detail relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation”.*

10. Therefore, though the names of present applicants-accused are not found in the FIR, it must be kept in mind that near about 30 to 40 persons attacked on the persons accompanied the

first informant. There is also history of two serious crimes to the said incident as it is disclosed in the FIR itself. As the son of first informant by name David Patrick Manvel was murdered in the year 2014 by Hari Bhandari R/o. Nandgaon Sado village, Tal. Igatpuri, Dist. Nashik and he is accused No.1 in present case and still absconding.

11. The FIR further disclosed that in the year 2020 one person by name Sanjay @ Bhayya Baban Dhame was murdered and Rahul Ramesh Savle the deceased in present case, John @ motha Papa Patrick Manvel, Francis @ Kavu Patrick Manvel, Vishal Hanumant Khade (injured in this case), Sanju @ Sonu Mastan Mohan Raut (injured in this case), Pushpa Francis @ Kavu Manvel, Shradha Saiman Manvel were named in the said crime and they are on bail in the said crime, only John @ Chota Papa Patrick Manvel is in jail.

12. Thus, up till now two persons are murdered in the rivalry between the parties and in this case third murder has been committed. Thus, considering this serious situation and the stage of the investigation of present crime, it would not be proper to release the applicants-accused on bail. Therefore, there is no substance in the argument advanced by the learned counsel for applicants-accused Shri. Inamdar. The presence of alleged overt act will have to be considered after completion of investigation and this is not the stage. So far as case laws relied upon by the learned counsel for applicants-accused are concerned, those are in respect of when charge-sheet is filed and therefore, same are not applicable to the present case. In the result, following order is passed.

**ORDER**

- 1) Bail application No.221/2022 is hereby rejected.
- 2) Inform to concern police station accordingly.

Date- 23.02.2022

( M.A. Shinde )  
Additional Sessions Judge-8,  
Nashik.