

MHGA010008882022



IN THE COURT OF SESSIONS AT GADCHIROLI

(Presided over by Shri. Uttam M. Mudholkar)
(Additional Sessions Judge)

Spl. (Atro.) Case No. 71/2022

Crime No.298/2022

Akram Momin Sheikh

Aged about 31 years,
Occ- Service (Police Constable),
R/o. Pranhita Aheri,
Tah. - Aheri, Dist.- Gadchiroli.

.. Applicant

..Versus..

State of Maharashtra

Through PSO, P.S., Aheri,
Tahsil - Aheri, Dist. Gadchiroli

.. Respondent

Adv. Shri. R.P. Tembhurne for the applicant
P.P. Shri. A.S. Pradhan for the State

Oral Order below Exh.3

(Passed on 04.01.2023)

1] This is an application moved by accused for granting him regular bail on the count that he has already been directed to be released on anticipatory bail by this Court and at present charge-sheet has been filed for the offences punishable

under Sec. 376(2)(n), 313 & 417 of Indian Penal Code and Secs. 3(2)(va), 3(1)(w)(i) & 3(1)(w)(ii) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'SCST Act'). It is contended that applicant is law abiding citizen and if released on bail, he will not abscond and will not tamper the evidence of prosecution witnesses and will also remain present for the hearing of the matter. As such, he has prayed for grant of regular bail.

2] The say of Learned PP was called and Learned PP Shri A.S. Pradhan has filed his reply and objected for grant of the application.

3] Heard Adv. Shri R.P. Tembhumne for the accused & P.P. Shri A.S. Pradhan and perused the record. It was vehemently submitted by Learned Adv. Shri Tembhumne that after grant of anticipatory bail there is no alteration of any serious section already made applicable to the present case and that as reflected in the application accused is ready to abide by all the terms and conditions imposed by the Court. As such, he requested to allow the application. Per contra, Learned PP Shri Pradhan vehemently submitted that though the anticipatory bail was granted to accused, the alleged offence is serious in nature and if released on bail, the accused may either tamper with the evidence of the prosecution witnesses or abscond. As such, he requested to reject the application. I have carefully gone

through the submissions of both the sides and record. The section, which is made applicable to the present case, does not provide for the punishment of death and therefore liberal view needs to be adopted. Apart from this, now chargesheet is filed and therefore, there is least possibility for the accused to tamper with the evidence of prosecution witnesses. Similarly, he appears to be local inhabitant and therefore, there is least possibility of his abscondance. Under these circumstances, no purpose would be served by detaining the accused till the conclusion of the trial which may take sufficient long time due to heavy pendency of other criminal matters. The record of the case indicates that already anticipatory bail has been granted to accused by this Court. The charge-sheet has been filed and therefore, the applicant/accused is seeking for grant of regular bail in the light of the anticipatory bail order already passed.

4] In view of the judgment in the case of **Sushila Aggarwal -v- state in SLP (Cri.) 7281-7282/2017** of Hon'ble Apex Court, anticipatory bail granted can continue even after filing of the charge-sheet and till the end of the trial. Hence, the request of accused to release him on regular bail is accordingly accepted and following order is passed.

ORDER

1. Application of Exh.3 for bail in Special (Atro.) Case no.71/2022 is allowed as under :-

2. Accused be released on bail on same terms and conditions except condition no.2(a) the order of this Court dated 12.08.2022.
3. Accordingly, bail application stands disposed off.

Date : 04.01.2023

(U.M. Mudholkar)
Additional Sessions Judge,
Gadchiroli