



Order below Exh.1 in Criminal Bail Application No.201/2023.

Pawan Gorakh Upalkar and others Vs. The State of Maharashtra

1. The applicant No.1/accused Pawan Gorakh Upalkar, applicant No.2/accused Vishal Ramkisan Gunjal, applicant No.3/accused Raju Sampat Gunjal and the applicant No.4/accused Milind Sanjay Dhanwate have filed this application under Section 439 of the Code of Criminal Procedure pertaining to the Crime bearing No.I-331/2023 registered with Shrirampur Taluka Police Station for the offences punishable under Sections 307, 353, 379, 147, 148, 149 of the Indian Penal Code and under Section 48(7) (8) of the Maharashtra Land Revenue Code and Under Section 3 and 15 of the Protection of Environment Act, 1986.

2. In short, the prosecution case is that, on 26/06/2023 informant Ashok Kulthe, Royalty Inspector, Collector Officer, Ahmednagar along with other staff and police went to river at Govardhanpur, Tal. Shrirampur for effecting raid regarding shifting of sand from the river. That time, they found that 7 damper trucks were standing there. Some people were loading the truck by filling sand. The informant and other staff and police gave their identification to the people. Meanwhile, 50-60 persons rushed toward them by making hue and cry. The persons said that how the raid staff dare to restrain them. They instigated the people and truck drivers to drive the damper on their persons. The drivers of the damper trucks had tried to drive the trucks on the raid staff in order to kill them. That time, Mr. Vasim Sayyad, District Royalty

officer directed PHC Mr. Baravkar to make fire in the air. After that, PC Mr. Baravkar made fire in the air. Thereafter, the people and truck drivers by leaving the vehicles ran away. The incidence was occurred at about 00.45 a.m. at night. After that, Mr. Vasim Sayyad made telephone call to Tahsildar, Shrirampur for providing additional staff. Thereafter, Tahsildar Mr. Waghchaure and other staff and drivers came there. Thereafter, 6 trucks were brought to Tahsil Office, Shrirampur. The informant Mr. Ashok Kulthe when he was lodging report of the incidence, came to know that some persons in the area of Tahsil office were shifting tires of the trucks. Therefore, the informant and police of Shrirampur Taluka police station immediately went there and arrested to that accused. The arrested accused told the name of other persons, who were present at the spot of incidence. On the report of informant Mr. Ashok Kulthe crime came to be registered against applicant/accused and others for the aforesaid offences.

3. It is the contention of the applicants/accused that they are innocent and have not committed any offence as alleged. The offences are not punishable with death or life imprisonment. There is no any recovery at their instance. They are falsely implicated in present crime. They are ready to abide any condition imposed by the Court. Other co-accused in said crime are released on bail. Hence, prayed to release them on regular bail on the ground of parity.

4. The Ld. AGP Shri.P.P. Gatne had filed his say at Exh.6. It is submitted on behalf of State that the offences are serious in nature. The accused and other co-accused were found loading

sand in truck and the name of this accused is told by the accused who had tried to commit theft of tires of the seized vehicles. Separate crime is registered against the accused who were committing theft of tires. The applicants/ accused tried to kill government servants. If they are released on bail they will commit such type of offence in future. Various offences are registered against present applicants/ accused in Shrirampur City Police Station. The sticks used in the crime are yet to be recovered. If the accused are released on bail, they will pressurize the witnesses. If the accused are released on bail, they will abscond and will make obstruction in the trial of the case. Therefore, prayed to reject the application.

5. I have heard Ld. Adv. Shri. T.K. Choudante for the applicants/accused and Ld. AGP Shri. P.P. Gatne for the State. Perused the F.I.R. and documents filed on record.

6. It is an admitted fact that the applicants/accused were not arrested at the river area. Offence under Sections 307 of IPC is punishable with imprisonment of either description for a term which may extend to ten years if injury is not caused. Other offences are not punishable with death or life imprisonment. There is no specific allegations against the applicants/accused that they tried to kill any person by driving the truck. The applicants/ accused were arrested on 17.07.2023 and was remanded to police custody till 19.07.2023 and thereafter on 19.07.2023 they were remanded to judicial custody. To secure the presence of the applicants/accused stringent conditions can be imposed upon them. The witnesses are police and revenue staff therefore there is

no possibility to pressurize them. In view of the aforesaid facts and circumstances, it reveals that the applicants/ accused are entitled to release on regular bail. Bail is rule and jail is an exception. In my view, this is not a fit case to keep the accused behind the bar. In the result, I pass following order.

Order

1. Criminal M.A.(Bail) Application No.201/2023 is allowed.
2. The applicant No.1/accused Pawan Gorakh Upalkar, applicant No.2/accused Vishal Ramkisan Gunjal, applicant No.3/accused Raju Sampat Gunjal and the applicant No.4/ accused Milind Sanjay Dhanwate be released on P.R. bond of Rs.25,000/- each and surety in the like amount with conditions that,
 - a) They shall not tamper or hamper the prosecution witnesses.
 - b) They shall attend Shrirampur Taluka Police Station on every Sunday from 11.00 a.m. to 1.00 p.m. for one month.
 - c) They shall not leave the jurisdiction of Ahmednagar District without prior permission of the Court.
 - d) On furnishing bail bonds, the concerned authorities be directed to release the applicants/ accused immediately, if not required in any other case.
3. Bail before Trial/remand Court.
4. Inform concern authorities accordingly.
5. Accordingly, Criminal M.A.(Bail) Application No.201/2023 stands disposed of.

Date : 25th July, 2023

(Gautam G. Bharne)
Additional Sessions Judge,
Shrirampur, Dist. Ahmednagar.