

MHAU040016862024



ORDER BELOW EXH.72 IN SESSIONS CASE NO.103/2024

The State Vs. Arun & ors.

1] The applicants / **accused nos.1, 4, 5 & 7** filed this application for declaring their arrest as illegal and to release them forthwith and set aside remand orders by declaring their arrest illegal, unconstitutional and violative of fundamental rights of accused.

2] It is submitted that, the necessary compliance of section 50 of the Cr.P.C. has not been done by the police authorities as well as Article 22(1) of the Constitution of India, which was mandatory. No grounds of arrest were informed to the applicants. Their arrest is in gross violation of Article 21 of the Constitution of India. The grounds of arrest are not mentioned in the arrest panchanamas of the accused. Even the grounds of arrest are not mentioned in the remand report and its copy was also supplied to them. It is submitted that, there is no ambiguity in law that, reasons of arrest and grounds of arrest, are not one and the same and there is significant difference in both the phrases. In support of application, accused have relied upon decisions of ***Kasireddy Upender Reddy Vs. State of Andhra Pradesh & ors., 2025 SCC Online SC 1228*** and ***Criminal W.P. No. 3119 of 2025, Ajit Kisan More Vs. State of Maharashtra by order dated 11th August, 2025.*** Hence, the application.

3] The Investigating Officer and the Ld. APP opposed the application vide common say. It is submitted that, accused have committed the murder of Petras Sonawane and attempted to commit the murder of informant and witnesses by means of dangerous weapons i.e. axe, koyata, iron rod, etc. on account of agricultural dispute. If the accused are released on bail, commission of similar kind of offences and chances of tampering the prosecution witnesses, cannot be ruled out. The tractor used in the commission of offence is yet to be seized.

4] Learned advocate for applicants / accused made submission in consonance to the application and submitted that, the accused moved the application mainly on the ground of illegal arrest and violation of Article 22(1) of the Constitution in view of non-compliance of Article 50 of Cr.P.C. It is strongly argued that the fundamental rights of the accused have been violated since they were not informed of the grounds for arrest in writing. Therefore, the accused are entitled to bail. Thus, it is requested that, the applicants be released on bail.

5] Per contra, the learned APP submits that, present applicants-accused along with other accused are facing trial for the offences punishable under section 302, 307, 143, 147, 148, 149, 504 of IPC. The the offence is serious in nature. There is prima-facie case against the present applicants/accused. It is submitted that, the accused were duly informed about their grounds of arrest. Hence, the application is not maintainable. With this, it is prayed to reject the application.

6] Having heard submissions canvassed by respective counsels, so far as another ground is raised as to the violation of fundamental rights for non-compliance of section 50 of Cr.P.C. to that respect, it appears that, the charge-sheet page no.302 to 304, 311 to 314 duly demonstrate that the ground of arrest, were communicated to the accused in writing under section 50(1)(A) of the Cr.P.C. The said documents / notice also bear signature of accused. Thus, the ground raised by the accused for enlarging them on bail, is not justified. Admittedly, the accused are represented by their counsel and they are conducting their case, thus, the accused have got full opportunity to defend themselves.

7] Most materially the accused have not raised these grounds earlier, twice their applications were rejected. There is no change in circumstance to claim the bail.

8] Yet the material witnesses are to be examined. Therefore, if the accused will be released, the apprehension raised by the prosecution is justified. There are chances of fleeing away of the accused if they will be released. The prosecution is at mid. The trial is in progress. There is sufficient material against the accused showing their involvement in the commission of offence. Hence, I am not inclined to release the accused on bail and proceed to pass the following order :-

ORDER

Application Exh.72 is rejected.

Date : 18.09.2025

(Smt. S. K. Upadhyay)
Additional Sessions Judge,
Vaijapur, District Aurangabad.