

MHBI010028632023	<u>SESSIONS CASE No. 141 of 2023</u>
	The State of Maharashtra. <u>Vs.</u> Manik s/o Prakash Kadwanche & Ors.

ORDER BELOW EXHIBIT 07.

This application is filed by applicants/accused No.1 Manik s/o Prakash Kadwanche, 2. Prakash s/o Laxman Kadwanche and 3. Yellappa s/o Sitaram Ganjte under Section 439 of the Code of Criminal Procedure, in connection with C.R. No.186/2023 registered with Police Station, Georai Tq. Georai for the offences punishable under Sections 307, 326, 367, 327 read with Section 34 of the Indian Penal Code.

2) The applicants inter-alia contended that they are innocent and have not committed alleged offence. The informant and applicants were closed friends and resides in the same locality. The informant had illicit relation with one girl. Prior to registration of the crime, informant was doubtful that applicant No. 1 is also having illicit relations with that girl. Out of said grudge informant falsely implicated applicant No. 1 and his relatives in this false case. Informant has not sustained grievous injuries and came to be discharge from the Hospital. There is no direct evidence against the applicants. Investigation is completed and charges-sheet is filed. Alleged sections do not attract against the applicants. The applicants have movable and immovable properties at Georai. There is no possibility of their abscondance. The applicants are only earning members of their family. Since the date of arrest the

applicants are behind the bars. The applicants are ready to obey any conditions and prayed to allow the application.

3) The application is resisted by the prosecution by filing its say at Exh.09. It is contended therein that the offence is serious in nature. Prima facie involvement of the applicants is seen from police papers. If the applicants are released on bail, they will tamper with the prosecution evidence and will commit similar offence. The prosecution is ready to conduct the trial expeditiously. There is strong prima facie case against the applicants. Lastly it is prayed to reject the application.

4) Ld. Advocate for the applicants argued on the line of the bail application. He submitted that the applicants are arrested on 20/04/2023 and since then they are behind the bars. Investigation machinery done recovery of all incriminating articles. Nothing is to be recovered from the applicant. The informant/injured sustained simple injuries and came to be discharged. There is no possibility of conversation of the offence in serious crime. Charge-sheet is filed. So there is no chance of tampering with prosecution evidence. He prayed to allow the application.

5) Ld. DGP submitted that the offence is serious in nature. Police papers show complicity of the applicants. If the applicants are enlarged on bail, they will tamper with prosecution evidence and also will abscond. He prayed to reject the application.

6) It emerges from police papers on record that police papers

on record that on 15/04/2023 at about 04-30 p.m. to 05-00 p.m. the applicants/accused allegedly assaulted informant by means of axe, wooden stick and stone. Applicant No. 1 allegedly assaulted informant by axe, applicant No. 2 and 3 assaulted informant by stick and stone. It further reveals that FIR is lodged on 19/04/2023 i.e. after four days of the alleged incident. There is no explanation for delayed FIR. The police have recorded memorandum statement of accused persons and also recovered axe, stick. Likewise, the police seized cloths on the person of the accused at the relevant time. Motorcycle is also seized. Statement of witnesses have been recorded. Call detail records are also filed on record. Investigation is completed and charge-sheet is filed. There appears nothing to be recovered or discovered from the applicant. The applicants/accused are arrested on 20/04/2023. They were in police custody till 24/04/2023 and since thereafter they are in Jail. The injured informant appears to have sustained simple injuries and came to be discharged from the Hospital. So there is no possibility of conversion of crime into greater offence. Since investigation is completed and charge-sheet is filed further presence of the applicants/accused in Jail does not appear warranted. Trial of the case may take its time. In the circumstances, it is not desirable to keep the applicants/accused behind the bars indefinitely. In the circumstances it would not be desirable to languish the applicants/accused behind the bars indefinitely. The applicants are ready to obey any conditions. Hence it would be appropriate to enlarge the applicants/accused on bail. Apprehension of the prosecution can be taken care of by imposing certain conditions on the applicants. IN the result following order is passed :-

ORDER

- 1) The application is allowed.
- 2) The applicants/accused namely No.1 Manik s/o Prakash Kadwanche, 2. Prakash s/o Laxman Kadwanche and 3. Yellappa s/o Sitaram Ganjte be released on bail C.R. No.186/2023 registered with Police Station, Georai Tq. Georai for the offences punishable under Sections 307, 326, 367, 327 read with Section 34 of the Indian Penal Code. executing PB and SB of Rs.15,000/- each.
- 3) The applicants/accused shall produce their residential proofs such as Ration card or Adhar card or electricity bill etc. to show their permanent place of residence, at the time of furnishing surety in the Court.
- 4) The applicant/accused shall not commit similar offence.

Date: 04/10/2023
Beed.

(**V. H. Patwadkar**)
Additional Sessions Judge-2,
Beed.

:: CERTIFICATE ::

" I Affirm that the content of this PDF file are word to word as per original Judgment/Order "

Dictated on :- 04/10/2023

Transcribed on :- 04/10/2023

Checked & Signed on :- 04/10/2023

Dt.04/10/2023

Sd/-
(Asifali R. Sayyad)
Stenographer Grade-I
Additional Sessions Court
Beed.