

IN THE COURT OF SESSIONS JUDGE, DHULE
AT DHULE

ORDER BELOW EXH. 4
SPECIAL CASE NO. 132/2024

(CNR No. MHDH01-002358-2024)

(State of Maharashtra Vs Vijay Sudam Koli + 2)

1] Applicant/accused Nos. (2) Vicky Gokul Shirsath (Koli) and (3) Sudam Punju Koli have filed application for regular bail under Section 439 of Cr.P.C.1 (**under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023**), for the offences punishable under Sections 302, 324, 323 r/w 34 of the Indian Penal Code and under Section 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 in Special Case No.132/2024 registered in connection with crime No.229/2024 of Shirpur City Police Station.

2] Perused application, say and record.

3] It is the submission of Ld. Advocate Shri. B. B. Waghmare for accused persons that, this is the first bail application. Since 25.04.2024 both accused are in the custody. Accused Vicky Shirsath is only 19 years old and accused Sudam is old aged person of 65 years. They do not have any criminal antecedents. Chargesheet also filed against the accused persons in the Court.

4] Ld. Advocate Shri. Waghmare further submitted that, there was sudden scuffle. Accused persons have not predetermined about committing of murder of deceased Jama Namu Bhil. Atrocity Act is not attracted to the accused persons as the said scuffle was not took place on the ground of their

caste. Main assailant is accused No. 1 Vijay Koli and he is the behind bar. The role of these accused persons is only that they have given blows of fist and kick but the weapon was used by accused Vicky. Both accused are the permanent resident of Anandwadi, Karwand, Tal. Shirpur, Dist. Dhule having landed property. Hence, no possibility for absconding. No purpose will be suffice for keeping behind bars the applicants for longer period. Lastly prayed for regular bail.

5] Ld. APP Shri. N. B. Kalal strongly objected to release these accused persons on regular bail on the grounds that, these two accused also accompanied with the accused No. 1 in commission of the crime, therefore, their participation and role directly can be considered. Eyewitnesses clearly mentioned their names that they have also assaulted to the deceased. All three accused persons are responsible for the death of deceased. Few days ago chargesheet is submitted. Witnesses and accused persons are the resident of same village therefore possibility of tampering cannot be ruled out. Hence, it is not proper stage to release them on bail.

6] Complainant also came before the Court and strongly objected for the bail of accused persons. As per his submission, relatives of accused persons threatened to kill them as per the message sending from the accused persons. They all are residing in his village therefore he has life threat.

7] I have perused the record and found on 25.04.2024 all accused persons were arrested and at present they are behind the bar. It also reveals that, deceased, his relatives, witnesses

and accused persons are the resident of same village Anandwadi, Karwand, Tal. Shirpur, Dist. Dhule. Therefore, I do rely on the submission of Ld. APP that, there is a strong possibility of tampering and which cannot be ruled out, particularly considering the high status of accused persons in the village.

8] Post mortem reports and photographs of deceased clearly reveals that, on the chest is badly damaged and grievously injured by the iron peg. Due to the said injury he has died. As per the contents of FIR, incident took place only on the previous reason i.e. accused Vijay Koli could not see the *Mehandi* programme as the complainant Yogesh was standing in front of him. Accused Vijay Koli given a kick to him and, hence, deceased Jama, who is the maternal uncle of complainant Yogesh, asked accused Vijay as to why he had given a blow of kick to Yogesh. On it, all accused got angry and accused Vijay assaulted to Jama by the sharpen weapon on the chest, hand and stomach. At that relevant time, accused Vicky and Sudam also started assaulting by kick and fist blows to the deceased. When complainant Yogesh bent to lift his maternal uncle at that time accused Sudam assaulted on his head by the brick, therefore, Yogesh fell unconscious and after regaining consciousness he find himself in the hospital.

9] Statements of eyewitnesses and other witnesses corroborated with the contents of FIR and regarding the injuries they corroborated with the contents of post mortem report. Contents of FIR and statements of witnesses clears the

aggressive role of accused Vijay Koli and Sudam Koli in the crime. However, the role of Vicky Koli is lesser than both of them as he had assaulted by fist and kick blows only to the deceased.

10] As per record, since near about three months accused persons languishing behind the bar. Chargesheet before the Court is filed on 29.06.2024. One and half month back it was submitted before the Court. At present, it cannot be considered that whether Section of Atrocity Act rightfully levelled or not. It will be decide after concluding the trial. Material part to note is, accused persons shown their dominance in the village on all the members of scheduled caste and scheduled tribes. On this reason, they could dare to assault.

11] More so, the aggravated involvement of Vijay Koli and Sudam Koli clearly reveals whereas accused Vicky Koli has some lesser role. Also, it cannot be aside that, accused persons and the witnesses along with the relatives of deceased are the resident of same village Anandwadi, Karwand. Therefore, possibility to repeat same kind of offence by using the influence by the accused persons cannot be ruled out. However, I find the prayer of accused Vicky Shirsath (Koli) can be considered being the lesser role in the crime. But I do not find any justifiable reason that, accused Sudam Koli is entitled for regular bail. Hence, I pass following order.

ORDER

1. Bail Application (Exh.4) is hereby partly allowed.
2. Accused No.2 Vicky Gokul Shirsath (Koli) be released on

regular bail of the offence punishable under Sections 302, 324, 323 r/w 34 of the Indian Penal Code and under Section 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 in Special Case No.132/2024 registered in connection with crime No.229/2024 of Shirpur City Police Station on his executing bond of Rs.25,000/- with surety in the like amount, with the conditions that :-

- a] He shall not meet or pressurize with the informant and prosecution witnesses.
- b] He shall not leave Dhule district without prior permission of the Court.
- c] He shall not enter into the radius of 1000 meter from the residence of informant and witnesses.
- d] He shall produce his permanent address proof at the time of producing surety.
- e] He shall present before the Court on each and every date fixed in the case.

3. Regular bail application of accused No. 3 Sudam Koli is hereby rejected.

4. The breach of above conditions shall lead to the cancellation of bail of accused No. 2 Vicky Gokul Shirsath (Koli)

5. Inform concern police station accordingly.

Dhule
Date : 06.08.2024
Time : 2.45 pm to 03.30 pm

(Madhuri Anand)
Sessions Judge, Dhule.

Certificate

I certify that the contents of this PDF file are word to word as per Original Order.

Name of the Steno : Prashant P Kulkarni
Name of the Court : Court of the Principal District Judge and
Sessions Judge, Dhule
PDF uploaded on : 07.08.2024

Sd/xx
Stenographer