

ORDER BELOW EXH-4 IN SPECIAL CASE NO. 91/2025

(State of Maharashtra Vs. Abhishekh Manjunath Mali & ors.)

1. By way of present application under section 439 of Criminal Procedure Code, applicants/accused Abhishekh Manjunath Mali and Atul Subhash Shinde have prayed for regular bail in CR No. 772/2024 registered with Juna Rajawada police station for the offence punishable under Section 302, 201, 143, 147, 148, read with 149 of the Indian Penal Code.
2. Perused the application and say thereon. Heard Shri. Khotlande, Learned Counsel for the applicant/accused, Learned Special Public Prosecutor Smt. A. A. Kulkarni for the State.
3. Learned Counsel for the applicants submitted that one unidentified body was found in Hutatma Park. Head of the body was missing. Some how the body was identified and present accused persons were arrested merely of suspicious. The FIR was lodged on 28/12/2024 i.e. after 8 to 9 months recovery of dead body. The missing complaint was also lodged by wife of deceased on 05/04/2021 i.e. after 21 days of the alleged incidence.
4. As per prosecution the deceased was working with witness Rahul on hotel by name 'New Rahul Hotel'. His version is contradictory to the prosecution case. As per opinion of doctors the death had occurred about 72 to 96 hours prior to the postmortem.
5. There is no direct evidence against anybody. However, police shown that the applicants have discovered some weapons. There is another discovery panchanama about the spot. However,

said spot was already known to the police. Out of five weapons allegedly used by the accused persons only two weapons “Edake” were discovered. The place is also not specific, it is only mentioned in the memorandum statement that they were dropped in “one lake”. There is no other material except so called discovery. Moreover, the remand report dated 06/01/2025 and 08/01/2025 are contrary to each other. In the remand report dated 06/01/2025, it is mentioned that accused No. 1 i.e. Atul Shinde has discovered the weapons alleged used in the commission of offence. A copy of case diary entry No. 30 is also produced on record. However, in the remand report dated 08/01/2025 in para 3 of the “completed investigation” it is mentioned that two Edake were discovered by the other applicant i.e. accused No. 2. Therefore, the material is as vague as possible. The opinion about the used of weapon and possible injuries is also vague. Moreover, such opinion about the decomposed body is not possible. Hence, applicants may be enlarged on bail on appropriate terms.

6. In support of his contentions the applicants have read upon seven case laws.

1. Sanjay Ratnya Bhosale Vs. State of Maharashtra, AIR Online 2021 Bom. 5064
2. Santosh Keshav Dalvi Vs. State of Maharashtra, AIR Online 2021 Bombay 1579
3. Manash Nath Vs. Police Inspector officer in charge of Vernem Police Station, AIR Online 2023 Bombay 1942
4. Akhilesh Kumar Sahani Vs. Police Inspector, Old Goa Police Station, AIR Online 2024 Bombay 1349

5. Santosh Prakash Gurav Vs. State of Maharashtra, AIR Online 2022 Bombay 6521
6. Pulukuri Kottaya Vs. King Empenor, 1946 BCI (O) 125
7. Randeep Singh @ Rana and Another Vs. State of Haryana and Others, 2024 DGLS (SC) 1160

7. On the other hand Smt. A. A. Kulkarni submitted that the body was found on 04/04/2025. However, the wife was totally unaware about the incidence. She was residing at the different place. As she could not contact the deceased for considerable days, she lodged the missing complaint. The present accused came to be traced in pursuance to secret information received by the police. The applicants are the prime accused.

8. There are memorandum statements and discovery of weapons in pursuance to the same. Moreover, the spot of incidence and the spot where the body was found are totally different. Therefore, discovery of the spot by the accused is also important. The head of the body cannot be traced. The opinion of the medical officer in respect of use of weapons is indicating towards use of weapons discovered by the applicants.

9. She further submitted that the number of accused has inadvertently changed in remand report. However the discovery panchanama is on record and the same is required to be read in evidence. Now charge sheet is already filed and the prosecution is ready to complete recording in evidence by the end of this year. This is not a case of long incarceration. Hence, the application may

be rejected.

10. In the present case no doubt there is circumstantial evidence. However, at the same time the discovery of articles is clinching material against the applicants. The applicants have harped on the discrepancies in the remand report dated 06/01/2025 and 04/01/2025. However, the discovery panchanama is on record. The same is reflecting proper names of the accused. This aspect can be tested at trial as well. Moreover, there is force in the submissions of learned APP that the spot discovered by the accused is spot of incidence and it is same different than the spot where body was dropped. The spot of concealing the head was also allegedly shown. However, the head cannot be traced. The offence is serious and punishable with capital sentence. The decision cited by the applicants are reflecting cases related to total lack of evidence as well as long incarceration.

11. However, in the present case the accused came to be arrested just on 29/12/2024 i.e. six month back and now the prosecution is ready to go on with the trial. In such circumstances the prosecution can be given directions to complete recording of evidence as early as possible and before 30/11/2025. The applicants would be at liberty to renew the prayer for bail if the evidence of prosecution would not complete on or before 30/11/2025. Hence, I pass following order.

ORDER

1. Application (Exh.4) for bail filed by accused Abhishekh Manjunath Mail and Atul Subhash Shinde is hereby rejected.

2. The trial in Sessions Case No. 91/2025 is hereby expedited, prosecution shall submitted witnesses list. The accused be produced from jail on next date for framing charge.
3. The applicants are at liberty to renew the prayer for bail if the evidence of prosecution is not completed on or before 30/11/2025 for no fault on the part of the accused.
4. This application stands disposed off accordingly.

(Dictated and pronounced in open court.)

Date :- 07.07.2025

(Vinod Y. Jadhav)
Special Judge, Kolhapur