



**Sessions Case No. 387/2016**

**CNR No. MHPU010072872016**

**C. R. No. 33/2016**

**Alankar Police Station**

**Sambhaji Sadashiv Kamble Vs. State**

**ORAL ORDER BELOW EXH. 109**

(Passed on 15.11.2024)

1] This is the bail application moved by accused Sambhaji seeking his release on regular bail in Sessions Case No. 387/2016 arising out of Crime No. 33/2016 for the offences punishable under Sec. 302, 307 r.w. S. 34 of the Indian Penal Code, 1860 ( for short 'IPC' ), S. 4(25) of the Arms Act and S. 37(1)(a) r/w 135 of Mumbai Police Act registered at Alankar Police Station.

2] The brief facts, which led to the filing of the charge sheet, can be summarized as under -

That on 23/02/2016 informant Shivaji Shinde, who is father of victim Sagar, lodged the FIR with Alankar Police Station alleging that on that day at about 10:30 a.m., on account of previous enmity present accused Sambhaji and his associate Sanjay Mohol killed Sagar by assaulting him with a koyta and the cement block. Making such allegations, he lodged the FIR and pursuant to which crime as above came to be registered at Alankar Police Station. During the course of investigation, on the basis of evidence available, it was revealed that present applicant Sambhaji Kamble and co-accused Sanjay Mohol killed victim Sagar. During the course of investigation, they came to be arrested on 23/02/2016 and after completion of investigation, charge-

sheet came to be filed. Present accused Sambhaji Kamble is in judicial custody as on today.

3] Accused Sambhaji Kamble has moved the present bail application mainly on the ground of his innocence and parity. He has not committed any offence as reflected in the charge-sheet. According to him, co-accused Sanjay Mohol has been directed to be released on bail by the Hon'ble High Court. He will neither tamper nor abscond. Co-accused has been released on bail by the Hon'ble High Court and therefore on the ground of parity also he is entitled to be released on bail, though his earlier bail application has been rejected by the Sessions Court. Since the date of his arrest 23/02/2016, he is behind the bars and the trial is not yet concluded. He is ready to observe the bail conditions. On these grounds, granting of the application has been prayed for.

4] The application has been resisted by the Lady Sr. P. I. Sunita Rokade of Alankar Police Station and Ld. DGP Shri. Pramod Bombatkar by filing reply respectively below Exh. 110 and 109. It is alleged that the offences as detailed in the charge-sheet have been committed by the present accused and his associate. The ground of parity is not at all available to the present accused. There is strong prima facie material available against the present accused. His earlier bail application has been rejected by the Sessions Court. In the event of his release on bail, he will either tamper with the evidence or endanger the life of the witnesses. On these grounds, rejection of the application had been prayed for.

5] Heard learned advocate Smt. Nilima Vartak for accused and Learned DGP Shri. Pramod Bombatkar for the State. Perused the record

including the application, reply, the charge-sheet and written argument filed below Exh. 124 by Ld. Adv. Smt. Vartak. The submissions of both the sides were nothing but replica of the contents of the application and reply. The main thrust of the argument of Ld. DGP was that the trial was delayed on account of delay tactics played by the accused and covid pandemic. Whereas the Ld. Adv. Smt. Vartak requested to grant bail mainly on the ground of parity itself.

6] I have carefully gone through submissions of both the sides and record. After perusal of the record, it is found that previous bail application came to be rejected by my Ld. Predecessor. Recently, the Hon'ble High Court granted bail to co-accused Sanjay Mohol as per order dated 24/04/2024 passed in Criminal Bail Application No. 1662/2024. The relevant observations in the said bail order are reproduced hereinunder for ready reference -

*7. It is to be noted that Mr. Raut, learned Counsel for the Applicant at the outset submitted that the Applicant is not seeking bail on merits and that he is seeking bail on the ground of prolonged incarceration. The factual position on record shows that the incident in question has taken place on 23.02.2016. The Applicant was apprehended on 23.02.2016. The Charge-sheet was filed on 01.05.2016 and till date, even after eight years and two months post the arrest of the Applicant, the trial has not yet concluded.*

*8. Mr. Malshe, learned APP submitted that although as per the Charge-sheet, 34 witnesses are proposed to be examined by the prosecution, however, the prosecution intends to examine only 14 witnesses, out of which 8 witnesses have*

*been examined.*

*9. As far as the progress of the trial is concerned, charge was framed on 18.09.2017 and presently, the 9th witness is being examined by the prosecution. Mr. Raut, learned Counsel for the Applicant has tendered a chart. The same is reproduced hereinbelow :-*

***PROGRESS OF TRIAL***

<i>Date of framing the charge</i>	<i>18.09.2017</i>
<i>P. W. 1</i>	<i>Examination-in-chief was conducted on 21.09.2028 and 18.12.2019 and cross examination was conducted on 11.08.2022.</i>
<i>P. W. 2</i>	<i>Examination-in-chief was conducted on 24.02.2020 and cross examination was conducted on 15.09.2022.</i>
<i>P. W. 3</i>	<i>Examination-in-chief was conducted on 30.09.2022.</i>
<i>P. W. 4</i>	<i>Examination-in-chief was conducted on 17.10.2022 and cross examination was conducted on 20.10.2022 and 08.11.2022.</i>
<i>P. W. 5</i>	<i>Examination-in-chief and cross examination was conducted on 21.03.2023.</i>
<i>P. W. 6</i>	<i>Examination-in-chief was conducted on 18.04.2023 and cross examination was conducted on 19.05.2023.</i>
<i>P. W. 7</i>	<i>Examination-in-chief and cross examination was conducted on 03.07.2023.</i>
<i>P. W. 8</i>	<i>Examination-in-chief and cross examination was conducted on 03.10.2023.</i>

<i>P. W. 9</i>	<i>Examination-in-chief was conducted on 04.04.2024.</i>
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*The above chart clearly shows that it took about 6 years for examining 8 witnesses. Considering the progress of the trial, it took about 6 years for examining 8th witnesses. The trial is unlikely to conclude any time soon and is likely to take a considerably long time.*

*10. Speedy trial is one of the facets of right to life and liberty guaranteed under Article 21 of the Constitution of India. Speedy trial is an essential ingredient of “reasonable, fair and just” procedure guaranteed by Article 21 and it is the constitutional obligation of the State to devise such a procedure as would ensure speedy trial to the Accused.*

*11. Accordingly, the Applicant is entitled to be released on bail on the ground of violation of his fundamental right to speedy trial.*

*12. However, in the facts and circumstances of this case and particularly in the light of the statement of Ms. Sarika Sagar Shinde (Page No. 89) dated 22.03.2016 there is some apprehension expressed by Mr. Malshe, learned APP regarding tampering of evidence. Mr. Raut, learned Counsel for the Applicant states that therefore the Applicant will not reside within District - Pune and that the Applicant will reside at village – Bangarde, Taluka – Shrigonda, District – Ahmednagar and will attend the Shrigonda Police Station, Ahmednagar.*

13. *There are no other antecedents.*

14. *The Applicant does not appear to be at risk of flight.*

15. *Accordingly, the Applicant can be enlarged on bail by imposing conditions.*

16. *In view thereof, the following order:-*

*1 Hussainara Khatoon (IV) v. Home Secy., State of Bihar,  
(1980) 1 SCC 98*

**ORDER**

*(a) The Applicant - Sanjay Anant Mohol be released on bail in connection with C.R. No.33 of 2016 registered with the Alankar Police Station, District – Pune on his furnishing P.R. Bond of Rs.50,000/- with one or two solvent sureties in the like amount.*

*(b) The Applicant shall not enter District – Pune after being released on bail, except for reporting to the Investigating Officer, if called and for attending the trial.*

*(c) On being released on bail, the Applicant shall furnish his cell phone number and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto.*

*(d) The Applicant shall report to the Shrigonda Police Station, District – Ahmednagar once a week, on every Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Shrigonda Police Station, District – Ahmednagar to communicate details thereof to the*

*Investigating Officer:*

*(e) The Applicant shall not directly or indirectly make any inducement, threat, or promise to any person acquainted with the facts of the case so as to dissuade such a person from disclosing the facts to the Court or to any Police personnel.*

*(f) The Applicant shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any witness in any manner.*

*(g) The Applicant shall attend the trial regularly. The Applicant shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.*

*(h) The Applicant shall surrender his passport, if any, to the Investigating Officer.*

*17. The Bail Application is disposed of accordingly.*

*18. It is clarified that the Trial Court shall decide the case on its merits, uninfluenced by the prima facie observations made in this order.*

*Sd/-*

*[MADHAV J. JAMDAR, J.]*

7] The role attributed to co-accused Sanjay Mohol is identical with the role attributed to the present accused. The bail application has been granted by the Hon'ble High Court mainly on the ground of delay

in disposal of the case and long incarceration of the accused and also for the reason that several witnesses are yet to be examined and therefore the trial is not likely to conclude soon. The grounds on which co-accused has been directed to be enlarged on bail by Hon'ble High Court are perfectly applicable to the case of present accused Sambhaji. In other words, on the sole ground of parity itself he can be released on bail by this court. Hence, following order is passed -

### **ORDER**

1. Application (Exh. 109) in Sessions Case No. 387/2016 is allowed as under -
  
2. Accused **Sambhaji Sadashiv Kamble** arrested in Sessions Case No. 387/2016 arising out of C. R. No. 33/2016 for the offences punishable under Sec. 302, 307 r.w. S. 34 of the Indian Penal Code, 1860 ( for short 'IPC' ), S. 4(25) of the Arms Act and S. 37(1)(a) r/w 135 of Mumbai Police Act, registered with Alankar Police Station, be released on bail on executing P. R. bond of Rs. 50,000/- (Rs. Fifty Thousand only) with surety of the like amount.
  
3. The accused shall not enter District - Pune after being released on bail, except for attending the trial.
  
4. On being released on bail, the applicant shall furnish his cell phone number and residential address to the Alankar Police Station and shall keep the same updated, in case of any change thereto.
  
5. The accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of the case so as to

dissuade him / her from disclosing the facts to Court or any Police Officer and should not tamper with evidence.

6. The accused shall attend the trial court regularly on each and every date, unless exempted.

Date : 15.11.2024

Additional Sessions Judge,  
Pune

**CERTIFICATE**

I affirm that the contents of the PDF file Judgment are same word for word as per original Judgment.

Name of Steno	Smt. S. S. Phadke Stenographer Grade I
Name of Court	Shri. U. M. Mudholkar, District Judge 4 and ASJ, Pune.
Date of Order	15.11.2024
Order signed by PO	15.11.2024
on	
Order uploaded on	15.11.2024