



**Sessions Case No. 8/2019**

*(CNR No. : MHPU14-000162-2019)*

**State of Maharashtra**

**Vs.**

**Ganesh Thombare & Ors.**

**ORDER BELOW EXH. 139**

1. This successive bail application has been filed by the applicant/accused No.1 Ganesh Kondiba Thombare, applicant/accused No.3 Akshay @ Najya Bajirao Jadhav and applicant/accused No.4 Kondiba Bhairu Thombare under Section 439 of Cr.PC. to release them on regular bail, in connection with Crime No. 455/2018, registered at Police Station, Baramati Taluka, Dist. Pune, for the offence punishable under Sections 307, 324, 341, 504, 506 read with Section 34 of the Indian Penal Code.

2. The applicants/accused are arrested on 02/09/2018 in connection with the above referred crime and since then they are behind the bar. The applicants/accused are seeking bail on the grounds that, they are falsely implicated in this case only on suspicious ground. It is further contended that, investigation of this crime is already completed and since long charge-sheet is accordingly filed. Moreover, since long accused are detaining in jail. In such situation, the detention of applicants is not at all necessary. Advocate for applicants/accused argued that, while passing order in Cri. Bail Application No. 480/2023, passed on 05/09/2023 the Hon'ble Bombay High Court has directed to this Court to conclude the trial of this sessions case as early as possible and stand over the application. After that one bail application has filed by the co-accused Vishal @ Sampat Kondiba Thombare, in which the Hon'ble

Bombay High Court by way of its order dated **04/01/2024** in Cri.Bail Application No.**480/2023** directed to this Court to conclude the trial within on or before **31/03/2024** and disposed of the said application. But in spite of that directions given by the Hon'ble High Court, prosecution has intentionally prolonged the trial of this sessions case. Learned advocate for applicants/accused submitted that, speedy trial is the fundamental right of the applicants/accused and justice delay is justice Even prosecution intentionally prolong such matter. There is material change in this session case because original complainant die before deposing his statement before court, even forensic report not supported to the prosecution story. There is no any eye witness and every witness is hearsay. So there is no single evidence to connect the all the accused to this crime. There is no any prima facie evidence against these applicants/accused or in absence of any incriminating material against accused, they deserve the bail. There is no any single document or any evidence in charge sheet that these applicants/accused.

3. According to applicants, after perusing entire charge-sheet it will come to know that, prosecution has given a shape to the story and falsely implicated the accused in this alleged crime. The entire charge-sheet is filed with suspiciousness and there is no any eye witness in this case and allegations against the accused are doubtful. It is further submitted that, the prosecution story is doubtful. The allegations against the accused persons seems to be suspicious. The sickle found on the alleged spot is suspicious as ordinarily no accused involved would leave weapon, used in a

crime, on the alleged spot and prosecution did not take any finger impressions of the accused for forensic lab to confirm the finger prints on the alleged weapons. The only being a grudge in the mind of the complainant these accused falsely been implicated in this alleged crime. It is further submitted that, the applicants/accused shall make themselves available as and when required by police or the court. The applicants are resident of their above mentioned address and therefore, shall not abscond anywhere. Applicants undertakes that, they shall not directly and indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade them from disclosing such a fact to the court or to any police officer. The applicants are ready to furnish surety to the satisfaction of this court. They are ready to abide all the terms and conditions if any imposed by this Court. At last, applicants/accused prayed for releasing them on regular bail.

4. On the other hand, Investigating officer and learned APP have filed their say below Exh.140 and thereby opposed the present application on the ground that, there are sufficient material available against the present applicants/accused showing their involvement in the commission of this alleged offence. Investigating officer further submitted that, the injured of this crime is still taking treatment. The applicants/accused in furtherance of their common intention committed the alleged offence. In such situation, if applicants/accused released on bail, then possibility of tampering the investigation and pressurizing and threatening the witnesses cannot be ruled out. At last, he prayed for rejection of this application.

5. Perused the application and say filed by Investigating officer. I have also perused the police papers. Heard both side at length.

6. On perusal of record it reveals to me that, on the basis of report lodged by first informant Babaso Ramchandra Khomane, applicants are charged for the offence punishable under Sections 307, 324, 341, 504, 506 read with Section 34 of the Indian Penal Code, vide Crime No. **455/2018**. It appears to me that, the unfortunate incident has taken place on **01/09/2018** at about 23.45 hours. The injured Rajesh @ Chotya Babaso Khomane was assaulted by means of sickle and stone on that day and that time near Ganpati temple, within the jurisdiction of village Malegaon Khurd, Tal. Baramati and subsequently he was taken to the Baramati Hospital in injured condition for medical treatment. Record further shows that, about the said incident on **02/09/2018** first informant Babaso Ramchandra Khomane lodged his report to the Police Station, Baramati Taluka against applicants/accused and accordingly police have registered the offence vide Crime No. **455/2018**, for the offence punishable under Sections 307, 324, 341, 504, 506 read with Section 34 of the Indian Penal Code.

7. During the course of investigation it is revealed to the Investigating officer that, there was a previous enmity in between accused and injured and therefore, on 01/09/2018 all applicants/accused in furtherance of their common intention to kill injured made assault on injured by means of sickle and stone. After completion of investigation, the charge-sheet has been filed against the accused persons.

8. No doubt the nature of the alleged offence committed by applicants with co-accused, who is released on bail is serious one and even today also injured is taking treatment and he in the condition fo coma. It is necessary made it clear that, while deciding the bail application filed by one of other co-accused vide Bail Application No. **480/2023** (*Vishal @ Sampat Kondiba Thombare Vs. The State of Maharashtra*) on **04/01/2024**, Hon'ble Bombay High Court has directed to this Court to conduct the trial as expeditiously as possible by **31/03/2024**. It is to be noted here that, after receipt of the said order passed by Hon'ble High Court, this Court has taken well efforts in order to secure the presence of witnesses by issuing promptly summons to the witnesses as well as by calling concerned PSO in the Court for effective service of summons to the witnesses and during the trial till date in all **2** witnesses have been examined, while **2** witnesses are reported to be **died**. Sincere efforts have been made by this Court in order to conclude this trial as early as possible.

9. It is to be noted here that, as per liberty given by Hon'ble High Court, the earlier applicant by name Vishal @ Sampat Kondiba Thombare again approached before the Hon'ble High Court by way of filing Bail Application No. **1728/2024** and while deciding the said bail application by way of its order dated **06/05/2024**, Hon'ble High Court has released the accused by imposing certain conditions. Hon'ble Bombay High Court by way of this order observed that,

8. 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 constitutional obligation of the State to devise such a procedure as would ensure speedy trial to the accused.

9. Thus, this is a case where the applicant’s fundamental right of speedy trial is violated.

10. The trial is unlikely to conclude any time soon and is likely to take a considerably long time.

By mentioning the above reasons, the Hon’ble High Court has released applicant/accused on bail.

10. Here considering the above facts, no doubt the nature of alleged offence is serious one. However, in view of observations made by the Hon’ble High Court as mentioned above, he is ordered to be released on bail. It is to be noted here that, the role attributed by the present applicants/accused in commission of the offence is identical with the role played by the co-accused, who is released on bail. Therefore, rule of parity is applicable to the present applicants/accused. For the sake of arguments, if is considered that, applicants/accused are having criminal antecedent as argued by learned APP for State, however that cannot be a sole ground to deny the bail. Taking into consideration all the facts and circumstances of the case that the present applicants/accused are detained in the jail since last more than 5 years and 9 months and keeping them behind ar for further period will no serve any purpose and applicants/accused can be released on bail on the **ground of parity**. Hence, with these words I

proceed to pass following order.

**ORDER**

1. The application (Exh.139) is allowed.
2. The applicant/accused No.1 **Ganesh Kondiba Thombare**, applicant/accused No.3 **Akshay @ Najya Bajirao Jadhav** and applicant/accused No.4 **Kondiba Bhairu Thombare** shall be released on bail for the offence punishable under Sections 307, 324, 341, 504, 506 read with Section 34 of the Indian Penal Code, in connection with Crime No.455/2018, registered at Police Station, Baramati Taluka, Dist. Pune on execution of P.R. and S.B. in the sum of **Rs.1,00,000/- (Rupees One Lac only) each** with **one** or **two** solvent sureties of the like amount on following conditions :
  - [i] The applicants/accused shall not tamper with the prosecution evidence and shall not contact or influence the complainant or any witness in any manner.
  - [ii] The applicants/accused not to enter the Taluka Baramati after being released on bail, except for reporting to the Investigating officer, if called and for attending the trial.
  - [iii] On being released on bail, the applicants/accused furnish their cell phone numbers and residential address to the Investigating officer and shall keep the same updated, in case of any charge thereto.
  - [iv] **The applicants/accused shall report to the Hadapsar Police Station, Dist. Pune once in a week, on every Sunday between 11.00 a.m. to 01.00 p.m. till the conclusion of the trial. The Police Inspector of Hadapsar Police Station, Dist. Pune shall maintain**

**his register in order to communicate the details thereof to the Investigating officer.**

- [v] The applicants/accused 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 to any police personnel.
- [vi] The applicants shall attend the trial regularly.
- [vii] The applicants shall surrender their passport, if any to the Investigating officer.
- [viii] The applicants shall not leave the jurisdiction of this Court without prior permission of the investigating officer in writing.
3. If breach of the any of the above conditions committed, then investigating officer has liberty to move his application for cancellation of bail before this Court.
4. Intimate to the concerned police station and Jail authority accordingly.
5. The bail application (**Exh.139**) is accordingly disposed of.

Baramati.  
Date : 26/06/2024.

[ **R. K. Deshpande** ]  
Additional Sessions Judge, Baramati  
Dist. Pune

**CERTIFICATE**

I affirm that the contents of this P. D. F. file Order are same word for word as per original Order.

Name of the Steno :- **Shri. D. L. Gudde,**  
Stenographer (Grade-I)

Name of the Court :- **Shri. R. K. Deshpande,**  
District Judge- 2 &  
Additional Sessions Judge,  
Baramati, Dist. Pune.

Date of Order :- 26/06/2024

Order checked & signed  
by presiding officer on :- 26/06/2024

Order uploaded on :- 27/06/2024.