



ORDER BELOW EXHIBIT 03

(State of Maharashtra Vs. Santosh Vilas Choudhary)

1. This is an application filed by applicant/accused Santosh Vilas Choudhary, in C. R. No. 204/2023 registered at Kudal Police Station under Section 307, 452 of Indian Penal Code (in short 'I.P.C.'), for bail under Section 439 of Code of Criminal Procedure.
2. Prosecution case in nutshell is as under:-
The informant lodged report in the police station that, on 12/07/2023 at about 08.00 p.m. applicant entered in the house of informant from the back door and assaulted the informant, her mother, aunt, brother and friend of her brother Hritik by means of sickle, on the ground that, father of the informant had not paid his money.
3. The offence was registered vide C. R. No. 204/2023 under Section 307, 452 of I.P.C.
4. Accused has filed this bail application after filing of the charge-sheet. According to him, he is innocent and had not committed any offence. Investigation is completed. Charge-sheet has been filed. It will take long time to commence the trial. Accused is in jail since 15/07/2023, so no fruitful purpose will be served by detaining the accused in jail. He is the only bread earner of the family. Accused has his wife and 8 years school going daughter. F.I.R. is after thought. Hence, application be allowed.

5. The say of prosecution and Investigating Officer was called for. Investigating Officer filed the say at Exh. 05 and the learned A.P.P. filed the say at Exh. 06. It is their common contention that, due to assault by the accused witnesses are seriously injured. Their medical certificates are produced on record. After commission of the offence, while accused was fleeing away, he has been caught hold by Wadi people and was beaten by them. Thus, the offence bearing C. R. No. 206/2023, under Section 323, 324 r/w. 34 of I.P.C. has been registered by the accused against them and in that offence accused has admitted about commission of present offence. Accused is from out State. So, if he is released on bail, he may abscond. Hence, application be rejected.

6. Heard both sides. Perused relevant record.

7. It is argued by the learned counsel for the applicant/accused that, accused is innocent and had not committed any offence. Investigation is completed. Charge-sheet has been filed. It will take long time to commence the trial. Accused is in jail since 15/07/2023, so no fruitful purpose will be served by detaining the accused in jail. He is the only bread earner of the family. Accused has his wife and 8 years school going daughter. F.I.R. is after thought. Hence, accused be released on bail.

8. She relied on the citation **Sanjay Chandra Vs. Central Bureau of Investigation, AIR 2012 Supreme Court, page 830**. I have studied the same.

9. Per contra, it is argued by the prosecution that, due to assault by the accused witnesses are seriously injured. Their medical certificates are produced on record. After commission of the offence, while accused was fleeing away, he has been caught hold by Wadi people and was

beaten by them. Thus, the offence bearing C. R. No. 206/2023, under Section 323, 324 r/w. 34 of I.P.C. has been registered by the accused against them and in that offence accused has admitted about commission of present offence. Accused is from out State. So, if he is released on bail, he may abscond. Hence, application be rejected.

10. After considering the rival submissions before Court when record is perused it reveals that, now charge-sheet is filed. Thus, investigation can said to be completed. So far as attraction of Section 307 of I.P.C. is concerned, even though both the parties have pointed out various record before the Court in support of their contention, according to me, the said argument cannot be looked into, for the simple reason that, it is the matter of trial and evidence. For the purpose of releasing the accused, what is required to be looked into is, whether his detention is necessary. But, the prosecution has not placed on record any sufficient evidence to keep the accused behind the bar. So far as tampering of the evidence of the prosecution is concerned, except contention in that respect, there is no record in that regard. So also, accused is from out State, is not the reason to detain him behind the bar.

11. Besides this, even though it is contended by the prosecution that, accused has admitted his guilt in the complaint lodged by him against Wadi people, the said contention also is unacceptable at this stage. Thus, considering the stage of the matter, remote possibility of immediate commencement of trial, age of the accused, it is just and proper to release him on certain conditions. Under the circumstances, accused is entitled for bail. Resulting effect is:-

ORDER

1. The application is allowed.

2. Applicant/accused Santosh Vilas Choudhary, be released on bail in C. R. No. 204/2023 registered at Kudal Police Station under Section 307, 452 of Indian Penal Code, on his executing P. R. Bond of Rs.1,00,000/- (Rs. One Lac Only), with solvent sureties in the like amount on following conditions:-
- a) The applicant/accused shall not commit any other offence.
 - b) The applicant/accused shall not pressurize the complainant and witnesses and shall not tamper the evidence.
 - c) The applicant/accused shall not enter village Goveri, Madhavwadi, Tal. Kudal, till conclusion of the trial.
 - d) The applicant/accused shall furnish his permanent and temporary addresses with documentary proof along with mobile number and shall inform the Court in respect of change of his address.
 - e) The applicant/accused shall also furnish addresses of his two relatives along with their mobile numbers.
3. The breach of any of the condition will lead to cancellation of bail.

Sd/-

Sindhudurg
Date – 30/11/2023

(Smt. Sanika S. Joshi)
Additional Sessions Judge,
Sindhudurg-Oros.