



**ORDER BELOW APPLICATION (EXHIBIT 41) IN
SESSIONS TRIAL CASE NO. 14/2022
(STATE VS. RESHMA & OTHS.)
(PASSED ON 12/09/2023)**

Nature of the Application.

1. This is an application filed by the accused-Rajabai Tukaram Mane (for short 'accused') seeking direction to transfer her to Solapur District Prison, Solapur (for short 'Solapur Prison') from Kolhapur Central Prison, Kolhapur (for short 'Kolhapur Prison').

Contents in the Application.

2. The accused has contended that she is under trial prisoner. It is not possible for her relatives to travel from Solapur to Kolhapur to meet her.

3. On these grounds the accused has prayed to grant the application.

Contents in the Reply of the Superintendent, Solapur Prison.

4. The Superintendent, Solapur Prison has filed reply (Exhibit 42).

5. The Superintendent, Solapur Prison has strongly objected the application. He has contended that the accused is kept in Kolhapur Prison considering the availability of accommodation and the number of inmates in Solapur Prison. The Solapur Prison is over crowded and in fact there is no sufficient accommodation available in Solapur Prison. There is no separate accommodation available in Solapur Prison for the female accused who is involved in serious offences.

6. On these grounds the Superintendent, Solapur Prison has prayed to reject the application.

The Arguments.

7. I have heard Shri. V. S. Bendgude, advocate for the accused and Shri. S. V. Wangikar, A.P.P. for the prosecution, at length.

8. They argued in consonance with the contentions in the application, say and referring the documents produced on record.

9. In order to avoid repetition it is not necessary to note those arguments.

Points and Findings.

10. Upon hearing the following points arise for my consideration and I record my findings thereon as under for the reasons to follow :-

	Points	Findings
1)	Whether a case has been made out by the accused to transfer her from Kolhapur Prison to Solapur Prison, as prayed for ?	No.
2)	What order ?	Application Rejected.

Reasons as to Point Nos. 1 and 2.

11. The F.I.R. clarifies that the accused and the other accused-Sachin Lawate, Pradip, Sachin Ghodake and Reshma were in contact with each other and called the deceased out of his house on 30/10/2021 and committed his murder as the accused-Sachin was having illicit relation with the accused. Under such circumstances when the deceased is killed brutally by the accused and the other accused, it cannot be said that she is falsely implicated in the offence.

12. The evidence on record showed that the accused and the

other accused-Sachin were having illicit relation and the accused gave Rs. 38,00,000/- to the other accused-Sachin and the deceased was asking for its account therefore, the accused and the other accused joined hands together and killed him. The statements of the witnesses prove that the accused is involved positively in killing the deceased, prima-facie. Therefore, it cannot be said that the accused was not involved in killing the deceased.

13. In view of all the facts and the intention gathered from all the circumstances it could be said that case is made out under Sections 302 and 201 of the I.P.C., prima-facie.

14. It is well settled that the Prison Authority has domain to transfer accused to any prison on the ground of scarcity of premises or for security purpose keeping in mind the offence with which the under trial prisoner is charged and also his/her criminal antecedents.

15. In my considered view the accused has no right to demand that she should be detained in a prison of her choice or to transfer from one prison to the other.

16. I fully agree with the arguments advanced by Shri. Wangikar, A.P.P. for the prosecution that the Prison Authority after considering all the relevant aspects such as availability of premises, security of the accused and the offence with which she is charged, transferred her to Kolhapur Prison. Therefore, I am not inclined to grant the application.

17. Above all the letter received from the Solapur Prison vide outwards No. सोजिका/न्यायविभाग/बंदी वर्ग/१६७४/२०२३ दिनांक ०७/०९/२०२३ showed that there is no availability of premises in the Solapur Prison to accommodate new prisoners and Solapur Prison has requested to

transfer the inmates to other prison more particularly to Kolhapur Prison. This in other word make is clear like cloudless sky that it is also not practical to direct Solapur Prison to accommodate the accused considering its grievance raised in the letter, supra.

18. I am unable to persuade myself with the argument advanced by Shri. Bendgude, advocate for the accused that the accused is entitled for her transfer from Kolhapur Prison to Solapur Prison because (i) Kolhapur Prison is at long distance from her residence and (ii) it has become difficult for her relatives that is to say her family members to meet her and help her in conducting her judicial work. The reasons are :-

- That at present the presence of the accused is not required for any purpose and she can very well be produced through video conferencing.
- **That the relatives and the advocate of the accused is also at liberty to contact her through video conferencing as well as using e-prison facility by making request to that effect to the Prison Authority.**
- That no extraordinary circumstance is brought to my notice which will lead to grant this application.
- That considering my discussion, supra.

19. **To sum up, considering the merits of the matter, gravity of the offence, positive involvement of the accused, scarcity of premises available in Solapur Prison and security of the accused, she is not entitled to seek a direction to the Prison Authority to transfer her from Kolhapur Prison to Solapur Prison.**

20. In view of the above-mentioned facts and circumstances of

the case, I am declined to grant the application.

21. I leave open the contentions of the parties on the merits of the trial.

22. Accordingly, I answer point No. 1 in the negative and point No. 2 as application rejected.

23. In the result, following order :-

ORDER

1.	The application (Exhibit 41) is rejected.
2.	The Bench Clerk, Criminal is directed to send copy of this order to the accused via e-mail.

(Pronounced in the open Court).

Date : 12/09/2023.

(M.B.Lambe)
Additional Sessions Judge,
Pandharpur.

C E R T I F I C A T E

I affirm that the contents of this PDF file Order is same word to word as per the original Order.

- (a) Name of the Stenographer : Sou. M. M. Kulkarni
- (b) Court : M. B. Lambe,
District Judge – 1 &
Addl. Sessions Judge, Pandharpur.
- (c) Order signed by P.O. on : 12/09/2023.
- (d) Order uploaded on : 14/09/2023.