



ORDER BELOW APPLICATION (EXHIBIT 4)
IN ATRO SPECIAL CASE NO. 15/2024
(ADITYA & OTH. VS. STATE)
(PASSED ON : 31/05/2024)

Nature of the Application.

1. This is second application filed by the accused-Aditya @ Bhaiyya Manoj Mane and Swapnil Arun Ahire (for short 'accused') seeking bail under Section 439 of the Code of Criminal Procedure (for short 'Cr.P.C.') in Crime Register (for short 'C.R.') No. 210/2024 registered at Pandharpur Taluka Police Station under Sections 307, 365, 324, 323, 504, 506, 143, 147 and 148 read with Section 149 of the Indian Penal Code (for short 'I.P.C.'), Sections 3(1)(r)(s) and 3(2)(v) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'Atrocities Act') and Section 135 of the Maharashtra Police Act.

Contents in the Application.

2. The accused have contended that in the first information report (for short 'F.I.R.') lodged by Akshay Waghmare (for short 'informant') against them and the other accused it is alleged that when he and his friend-Rohit Kamble (for short 'Kamble') went in 65 acre on 19/03/2024 at about 7.30 pm and saw that some persons were sitting near bathroom. The other accused-Rohit and Suraj called them. The other accused-Rohit abused him by caste name. When a scuffle was going on between them the other accused-Rohit removed belt from the waist of Kamble and started beating. The accused-Swapnil throw

vegetable chutney on his person. When he went to separate Kamble the other accused-Suraj gave threats to kill and tried to assault on his head by wooden log but he escaped and the wooden log hit his right cheek and he fell down. The other accused-Rohit beat him by belt on his back. The accused-Aditya assaulted by stone causing injury on the left hand little finger and lips of Kamble. The other three persons beat them by fist and kick blows. Kamble ran away. The other accused-Rohit and Suraj made him to sit on motorcycle and took him near railway bridge and gave threats to throw him into the river and from there they took him near Kaikadi Maharaj Math at about 8.15 pm. When he took out key of the motorcycle and throw it the other accused-Suraj beat him by belt. The other accused-Rohit caught hold his hair and pushed his head on his knee due to which he suffered injury on his right eye. Then they went away. Hence, C.R. No. 210/2024 is registered against him and the other accused.

3. They are innocent and have not committed any offence. they are falsely implicated in this case. Section 307 of the I.P.C. is not applicable.

4. The investigation is complete. They are of young age. Nothing is to be recovered from them. If released on bail, they will not tamper the evidence, are ready to co-operate with the investigation agency and to abide by the conditions imposed.

5. On these grounds the accused have prayed to grant the application.

Contents in the Reply of the Additional Public Prosecutor.

6. The Additional Public Prosecutor (for short 'A.P.P.') has filed reply (Exhibit 6).

7. The A.P.P. has strongly objected the application. He has

contended that the accused and the other accused have committed serious offence. The injury suffered by the informant is grievous.

8. If the application is granted there is possibility that the accused will threaten the informant and the witnesses, will commit another serious offence and will tamper the evidence.

9. On these grounds the A.P.P. has prayed to reject the application.

The Arguments.

10. I have heard Shri. P. A. Undale, advocate for the accused and Shri. A. M. Gore, A.P.P. for the prosecution, in extenso.

11. They argued in consonance with the contentions in the application, say and referring the documents produced on record. In order to avoid repetition it is not necessary to note those arguments.

Points and Findings.

12. 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 there is substantial change in circumstances and fact situation after the rejection of the first bail application of the accused, as alleged ?	Yes.
2)	Whether a case has been made out by the accused for granting the relief of bail, as prayed for ?	Yes.
3)	What order ?	Application granted. As per final order.

Reasons as to Point Nos. 1 to 3.

13. I would like to refer usefully the case of Laxman Irrappa Hatti & Anr. Vs. State of Maharashtra, 2004 All MR (Cri) 3073, wherein the Hon'ble Bombay High Court has observed :-

"After filing of the charge-sheet, the Court, apart from merits of the case, requires to consider whether the accused should be continued in custody even after the investigation is over. This change, in the approach of the Court after filing of the charge-sheet towards evaluating the need of keeping the accused in custody, should be termed as substantial change. It is open for the Court to take similar view which was taken while rejecting earlier application for bail made before filing of the charge-sheet. **However, in my opinion, it is not open for the Court to hold that filing of the charge-sheet is not a substantive change of circumstance and refuse to enter into merits of the case.** The Court is obliged to consider merits of the case afresh by allowing the accused or his advocate to argue an application for bail on the basis of documents supplied to the accused with the charge-sheet as required under Section 207 of Cr.P.C. "

14. The F.I.R. clarifies that the other accused-Rohit abused the informant by caste name. The other accused-Rohit beat by belt. The accused-Swapnil throw vegetable chutney on the person of the informant. The other accused-Suraj gave threats to kill the informant and assaulted by wooden log on his head which hit his right cheek. The other accused-Rohit beat the informant by belt on his back. The accused-Bhayya assaulted by stone on the left hand little finger and lips of Kamble. The other three persons accompanying them beat them by fist and kick blows. The accused-Suraj and the other accused-Rohit made the informant to sit on motorcycle and took him near railway bridge and gave threats to throw him into the river. The accused-Suraj

beat the informant by belt. The other accused-Rohit caught hold the informant's hair and pushed his head on his knee due to which he suffered injury on his right eye.

15. The investigation is complete and final report is filed. Nothing is to be recovered from the accused. There is no possibility of tampering with the evidence by the accused. The presence of the accused can be secured for the purpose of trial.

16. It is well settled that every person, detained or arrested, is entitled to speedy trial.

17. The accused are in custody since 20/03/2024, means for more than two months. Undisputedly, the trial will not commence due to huge pendency of cases until then accused will remain in jail. In my view the accused can not be kept behind bar for long time and if released on bail they will not interfere in the trial. Therefore, it is not in the interest of justice to keep the accused behind bar that too after filing of the final report.

18. I am unable to persuade myself with the arguments advanced by Shri. Gore, A.P.P. for the prosecution that as the offence is of serious nature the accused are not entitled for bail. The reasons are :-

➤ That this is second bail application filed by the accused after their first bail application came to be rejected. **Thereafter, final report is filed which in my opinion is substantial change in circumstances, prima-facie, which lead me to grant this application.**

➤ That considering my discussion, supra.

19. It is well settled that the provision of bail under

Section 439 of the Cr.P.C. is meant for saving the innocent person from unnecessary detention. The said provision cannot be used for a person, who prima-facie, is involved in criminal activities.

20. To sum up, the offence with which the accused are charged though is of serious nature there is no prima-facie evidence to hold their involvement in the offence. If the application is granted it will not hamper the trial. They have permanent place of residence. Their custodial interrogation is not necessary, anymore. **There is substantial change in circumstances and fact situation brought on record by the accused which will lead to grant this second bail application by taking different view than which was taken while rejecting earlier application for bail made before filing of the charge-sheet** (emphasis supplied). If that be so, his contention that they are innocent and are falsely implicated in the crime can be accepted, prima-facie. I am of the firm view that They are entitled to the grant of bail pending investigation on stringent conditions in order to lessen the intensity of the apprehension expressed by I.O. in his report.

21. Considering the above-mentioned facts and circumstances of the case, I am inclined to grant bail to the accused.

22. It is made clear that the observations made in this order are made for the limited purpose of this application only and all parties are at liberty to agitate their respective cases at the time of trial in the case on merit without being prejudiced even in the least by any of the observations made in this order.

23. Accordingly, I answer point Nos. 1 and 2 in the affirmative and point No. 3 as application granted, as per final order.

24. In the result, following order.

ORDER

1.	The application is granted.												
2.	The accused–Aditya @ Bhaiyya Manoj Mane and Swapnil Arun Ahire, be released on bail in Crime Register No. 210/2024 registered at Pandharpur Taluka Police Station, on their furnishing a personal bond in the sum of Rs. 50,000/- (Rupees Fifty Thousand only) each, with one surety in the like amount, on the following conditions :- <table> <tr> <td>(i)</td><td>The accused shall make themselves available for interrogation by the police as and when required under written intimation to that effect.</td></tr> <tr> <td>(ii)</td><td>The 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 him from disclosing such facts to the Court or to any police officer.</td></tr> <tr> <td>(iii)</td><td>The accused shall not tamper with the prosecution evidence by intimidating the witness in any manner.</td></tr> <tr> <td>(iv)</td><td>The accused shall not indulge in any criminal activity or commission of any crime after being released on bail.</td></tr> <tr> <td>(v)</td><td>The accused shall make themselves available and attend all Court dates.</td></tr> <tr> <td>(vi)</td><td>The accused shall not abscond and furnish their address to the police along with address proof.</td></tr> </table>	(i)	The accused shall make themselves available for interrogation by the police as and when required under written intimation to that effect.	(ii)	The 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 him from disclosing such facts to the Court or to any police officer.	(iii)	The accused shall not tamper with the prosecution evidence by intimidating the witness in any manner.	(iv)	The accused shall not indulge in any criminal activity or commission of any crime after being released on bail.	(v)	The accused shall make themselves available and attend all Court dates.	(vi)	The accused shall not abscond and furnish their address to the police along with address proof.
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(vi)	The accused shall not abscond and furnish their address to the police along with address proof.												
3.	The concerned police station be informed, accordingly.												
4.	The police papers be returned.												

(Pronounced in Open Court).

Date : 31/05/2024.

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

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 : 31/05/2024
- (d) Order uploaded on : 03/06/2024