



**ORDER BELOW APPLICATIONS (EXHIBIT 49 AND 50) IN
SESSIONS CASE NO. 69/2021
(STATE VS. MANISHA & OTH.)
(PASSED ON : 19/08/2023)**

Nature of the Application.

1. These are the applications filed by the accused-Manisha Bhima Dhane (for short 'accused') seeking direction to Kolhapur Central Prison, Kolhapur, Kolhapur (for short 'Kolhapur Prison') to transfer her to Solapur District Prison, Solapur (for short 'Solapur Prison').

Contents in the Application.

2. The accused has contended that she is under trial prisoner. She was transferred to Kolhapur Prison on 14/11/2022 and is there since last nine months. She has donated her kidney to her daughter. Her all relatives are residing at Solapur and therefore, it is not possible for her relatives 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 54).

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 the 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 woman inmates. The capacity of Solapur Prison to accommodate woman inmates is 14 but at present there are 39 woman inmates which is four times more. This create problem in respect of use of space for sleeping and using washrooms etc. causing security problem in the prison. There is facility of e-prison to meet the relatives. The medical officer post is not sanctioned at Solapur Prison. There is medical facility and medical officer post at Kolhapur Prison. The accused is transferred as per orders passed by the Deputy Inspector General of Prison, Western Region, Yerwada, Pune, on administrative ground.

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

Contents in the Reply of the Superintendent, Kolhapur Prison.

7. The Superintendent, Kolhapur Prison has filed reply (Exhibit 55).

8. The Superintendent, Kolhapur Prison has prayed to transfer the accused in Solapur Prison.

The Arguments.

9. I have heard Shri. D. A. Yadav, advocate for the accused and Shri. S. V. Wangikar, A.P.P for the prosecution, in extenso.

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

11. 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 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.

13. The F.I.R. clarifies that the other accused-Ananda was having illicit relation with the accused and Bhima was objecting this illicit relation and therefore, the accused and the other accused-Ananda killed Bhima.

14. The final report clarifies that the accused and the other accused-Ananda killed Bhima by strangulating. Under such circumstances when Bhima is killed brutally by the accused and the other accused-Ananda, it cannot be said that she is falsely implicated in the offence.

15. The statement of Vaishali Nichal-accused's daughter and Mamaji-accused's son is to the effect that the other accused-Ananda used to visit their house and was taking the accused with him for agricultural work.

16. The evidence on record showed that the other accused-Ananda was having illicit relation with the accused, which Bhima was not liking. Therefore, the accused and the other accused-Ananda killed Bhima mercilessly. The statements of the witnesses prove that the accused is involved positively in killing Bhima, prima-facie. Therefore,

it cannot be said that the accused was not involved in killing Bhima.

17. The accused is transferred to Kolhapur Prison from Solapur Prison on administrative ground as per order passed by the Deputy Inspector General of Prison after considering the availability of accommodation and facility in the Kolhapur Prison. Therefore, I see force in the submissions of A.P.P. that this application is not tenable.

18. 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.

19. 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.

20. Above all, serious allegations are made against the accused and the other accused that they killed Bhima and this fact can not be ignored while considering this application. Therefore, I am of the firm opinion that it is also in the interest of accused that she should remain in Kolhapur Prison.

21. 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, health of the accused and the offence with which she is charged, transferred her to Kolhapur Prison on administrative ground. Therefore, I see no bonafides in the application and as such I am not inclined to grant the application.

22. I am unable to persuade myself with the argument

advanced by Shri. Yadav, advocate for the accused that the accused is entitled for her transfer from Kolhapur Prison to Solapur Prison because (i) it is necessary for her to have dialogue with her relatives and (ii) it has become difficult for her to conduct the case. The reasons are :-

- That the accused can very well be produced through video conferencing before the Court.
- That the relatives and the advocates of the accused are 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.

23. **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 medical facility available for the accused in Kolhapur Prison, she is not entitled to seek a direction to the Prison Authority to transfer her from Kolhapur Prison to Solapur Prison.**

24. In view of the above-mentioned facts and circumstances of the case, I am declined to grant the applications.

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

26. Accordingly, I answer point No. 1 in the negative and point No. 2 as applications rejected.

27. In the result, following order :-

ORDER

1.	The applications (Exhibit 49 and 50) are rejected.
2.	The Bench Clerk, Criminal is directed to intimate this order to the accused via e-mail.

(Pronounced in the open Court).

Date : 19/08/2023.

(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 : 19/08/2023.
- (d) Order uploaded on : 22/08/2023.