

MHST010019852022



ORDER BELOW EXH.46 IN SESSIONS CASE NO.118/2022.

State of Maharashtra

....

Prosecution

Vs.

Dattatray Ramchandra Jadhav & Ors.

....

Accused

This application is filed by the accused No.1-Dattatray Ramchandra Jadhav under Section 439 of the Code of Criminal Procedure, 1973 for releasing him on bail.

02. The prosecution by filing say vide Exh. 47 has strongly objected this application.

03. Heard learned Advocate Shri. R. V. Pawar for the applicant/accused and learned APP Smt. G. M. Lakade for the prosecution.

04. It is submitted by the applicant/accused that :-

a] He has been arrested in this crime on 03.11.2020, though, he was already in jail in another crime, since 04.05.2018.

b] He has undergone substantial part of the punishment prescribed under Section 353 of the Indian Penal Code.

c] In this matter, Police persons are witnesses. Hence, there are no chance of tampering, if the accused is released on bail.

d] The first bail application of the applicant/accused is rejected. Thereafter, he had preferred one more application at Exh. 35 which also came to be rejected by the learned Predecessor of this Court.

e] Thereafter, also the prosecution did not take steps for speedy trial.

f] The other accused are already on bail.

g] This applicant/accused is ready to obey all the conditions imposed by this Court, if released on bail. Hence, application be allowed.

05. As against this, it is submitted by the prosecution that :-

a] The applicant/accused is facing charges under Sections 353, 332, 143, 147, 148 and 149 of the Indian Penal Code.

b] The accused is habitual offender and involved in various heinous crimes like murder, dacoity, ransom, theft, rioting, POCSO etc. Considering this background of the accused, he should not be released on bail.

c] The present matter is part heard. Material

witnesses are yet to be examined. In such circumstances, if the applicant/accused is released on bail, he may tamper the prosecution evidence or may influence prosecution witnesses.

d] His previous bail application was rejected on 26.12.2024. Since then no grounds are shown to change in circumstances to justify his successive bail application.

e] Hence, the application be rejected.

06. After hearing these submissions, I perused record and proceeding.

07. Upon perusal of the First Information Report (FIR), it appears that it is filed by one Rahul Chagan Khade, who is Police Naik regarding the incident dated 04.05.2018. It is alleged in the FIR that on 04.05.2018, he himself alongwith Probationer Superintendent of Police-Bansod and other Police Squad of Wathar Police Station were in search of the present applicant/accused as he was wanted in Crime No. 2/2018 registered under Sections 452, 384, 143, 147, 504, 506 of the Indian Penal Code and Sections 3(1)(ii), 3(2), 3(4) of the Maharashtra Control of Organized Crime (MCOCA) Act. During the said search the applicant/accused was found in Laxmi Nivas near Mari-Aai Temple. The applicant/accused thereafter, instigated the people gathered over there to resist against the Police. Thereafter, he himself and other accused who are his relatives tried to assault the complainant by an axe. Thereafter, he was brought in

the Police Station on 04.05.2018 itself and the offence came to be registered in Satara City Police Station vide C.R. No. 409/2018.

08. Though, it appears that the alleged incident occurred on 04.05.2018, the applicant/accused came to be arrested in this offence on 03.11.2020. When the applicant/accused was taken into custody on 04.05.2018, he got arrested in C.R. No. 2/2018 only pending in Pusegaon Police Station, but not in this crime on 05.05.2018 when FIR was registered.

09. Further, it appears that the accused had filed bail applications in the said C.R. No. 2/2018 which came to be rejected by the Sessions Court, Satara. But thereafter, bail application of this applicant/accused came to be allowed by the Hon'ble High Court, Bombay in Criminal Bail Application No. 4639 of 2024 on 4th December 2024.

10. It is to be noted that, though the applicant/accused was in custody of the Police, in C.R. No. 2/2018 from 04.05.2018 and the present C.R. No. 409/2018 of Satara City Police Station is outcome of the investigation of C.R. No. 2/2018 of Pusegaon Police Station and though, he was in custody since 04.05.2018, for round about two years, he was not arrested in the present crime and no investigation was carried out regarding present crime.

11. Further, it appears that this trial is commenced on 04.01.2024 and only one witness PW.1-Rahul Chagan Khade is

examined. Upon perusal of the *Ferist* of this matter, it appears that most of the witnesses are Police persons. Hence, there is no likelihood at all that this accused/applicant if released on bail would influence the prosecution witnesses or tamper the prosecution evidence as submitted by the learned APP in her written say Exh. 47 and also in oral submission.

12. Though, the present case is pending since the year 2022, no substantive progress is done by the Court also, to proceed his trial as early as possible. Even at present, the present case was pending before the Court of District Judge and Additional Sessions Judge No. 4, Satara, who is not functioning since December 2024. Hence, being Under Trial Prisoner, this case is transferred to this Court and when it is found that this bail application is pending since 23.01.2025, hearing of this application is expedited.

13. Further, it is one of the objection raised by the learned APP that there are many cases pending against the accused/applicant including POCSO, dacoity, murder etc. On this point, learned Advocate appearing for the accused submitted that in all other cases, the accused has been released on bail and only in this case, the accused is behind the bars and there is no substantive progress in the present matter.

14. In support of his submission, he has submitted various orders passed by the various Courts alongwith list Exh. 53. Upon perusal of the said orders, it appears that the following crimes were

registered against the applicant/accused under various Sections of the Indian Penal Code, but the accused/applicant has been released on bail relating to the said crimes. The following chart would be useful to know how many cases were pending against the accused.

Sr.No.	Offences	C.R. No.	Police Station	Order of Bail	Date of Order
1.	307, 353, 332, 336, 337, 224, 225, 143, 147, 149, 504, 506 of IPC.	146/2018	Jath	District Judge-5 and Addl. Sessions Judge, Sangli	17.12.2018
2.	143, 147, 384, 452, 120-B, 504, 506, 507 of IPC and 3(1) (ii), 3(2), 3(4) of MCOC Act.	2/2018	Pusegaon	Bombay High Court	04.12.2024
3.	395, 394, 365, 452, 427, 504, 506, 507 r/w.34 of IPC.	542/2017	Satara City	District Judge-2 and Addl. Sessions Judge, Satara	18.02.2025
4.	354(D), 115(2), 313, 376 (2)(i), 506 of IPC and 4, 6, 12 of POCSO	488/2018 (Spl. Case No. 57/2018)	Satara City	Special Judge (POCSO Act), Satara	18.01.2025

	Act and 4, 5(2), 5(3) of MTP Act.				
5.	307, 397, 384, 385 r/w. 120-B of IPC.	450/2023	Satara City	District Judge-2 and Addl. Sessions Judge, Satara	12.09.2023
6.	353, 332, 143, 147, 148 r/w.149 of IPC.	409/2018	Satara City	District Judge-2 and Addl. Sessions Judge, Satara	26.12.2024

15. Thus, it appears that though, there are various matters pending against the accused, he is released on bail in such matters.

16. In this matter also the accused had preferred one application at Exh. 35 which came to be rejected on 26.12.2024 by the then District Judge-2, Satara. However, upon perusal of the aforesaid chart, it appears that same Judicial Officer has released this accused in Special (POCSO) Case No. 52/2018 on 18.01.2025 and also in another Crime No. 450/2023 of Satara City Police Station registered under Section 307, 384 of the Indian Penal Code on 12.09.2023. But, in this matter, application Exh. 35 came to be rejected on 26.12.2024. Thereafter, i.e. on 18.01.2025, the same Judicial Officer has released the accused in Special (POCSO) Case No. 52/2018.

17. Considering all these facts and circumstances and considering very particular facts on record that the present accused is

in jail since 04.05.2018, still he was arrested in the present crime on 03.11.2020 and since then more than 6 to 7 years he is in jail. The punishment prescribed under Section 353 of the Indian Penal Code (Amended in State of Maharashtra vide Maharashtra Act 40 of 2018, S. 3 dated 07.06.2018) is upto 5 years imprisonment. The accused has already undergone 5 years and 5 months (from the date of arrest 03.11.2020). Thus, he has already suffered punishment in this crime without trial and without offence proved against him. Though, the incident in this matter is occurred on 04.05.2018, the charge-sheet came to be filed in the year 2022 and therefore, the matter is prolonged. As accused is in jail since last 7 years, he could not make necessary arrangement of Advocate to defend his case and therefore, the record shows that he himself has cross-examined PW.1- Rahul Chagan Khade in the present matter.

18. Considering all these circumstances and considering that all the witnesses in the present matter are Police witnesses, there are no chances at all that present accused would influence the said prosecution witnesses or would be able to tamper the prosecution evidence after lapse of 7 years. It also appears that there is no likelihood of completing this trial in near future or within 7 months (remaining period of punishment prescribed under Section 353 of the Indian Penal Code).

19. Moreover, the other accused in this matter are already on bail. There is no submission on the part of the prosecution that the said accused, when are on bail have tried to tamper prosecution

evidence. Hence, though there are serious cases pending against the accused, he is on bail in all other cases and therefore, there is no necessity to keep the accused, in this case, behind the bars, furthermore. Hence, the following order :

ORDER

- 1] Application (Exh.46) is hereby allowed.
- 2] The applicant/accused No.1-Dattatray Ramchandra Jadhav be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 50,000/- (Rupees Fifty Thousand only) with one or two local Solvent Sureties in the like amount.
- 3] The applicant/accused No.1-Dattatray Ramchandra Jadhav shall not tamper with the evidence or attempt to influence witnesses or any person acquainted with the present case.
- 4] The applicant/accused No.1-Dattatray Ramchandra Jadhav shall not indulge himself in the crime similar to this.
- 5] The applicant/accused No.1-Dattatray Ramchandra Jadhav shall attend this Court on every date of hearing.

(Dictated and pronounced in open Court)

Sd/-

(S. S. Kosamkar)
Sessions Judge, Satara.

Date :- 03.04.2025.