

Order Below Exh. 588 in Sessions Case No. 34/2024
(Old Sessions Case No. 62/2015)

(State of Mah. Vs. Somnath Dattuba Wadekar & Ors.)
(MHAH300001052020)

The accused no. 6 Dipak Ashok Manjare has preferred application Exh. 588 for bail. Say of the IO and APP are called upon they filed their say at Exh. 681.

2. It is necessary to mention the matter was repeatedly called in the morning session for hearing of bail application filed by the accused persons. The Ld. Advocate for present accused was absent when the other bail applications were been heard and decided. Subsequently, in the second sessions the Ld. Advocate approached and prayed for argument. The application is heard and decided on merits.

3. It is further to be noted this is an subsequent application, previous bail application was rejected, though nothing is mentioned in the application. The said fact is informed by the Ld. APP. It is to be taken note the Hon'ble Apex Court has time and again given directions the bail application preferred shall contend the details of previous bail application whether it was allowed, rejected whatever may be result, so as to facilitated and convenience of the Court to decide the subsequent bail application. At this juncture, waiving out the above procedure which are not followed the application is decided on merits in the interest of justice.

4. The Ld. advocate for the applicant/accused argued that there is change in circumstance and hence present application is filed. It is their submission that previous bail applications were rejected on the merits, whereas present application is filed on the basis of parity.

5. The Ld. Advocate argued that accused is lying in the jail since 2015 and till date the prosecution has not completed the evidence. It is argued that previously Spl. Prosecutor was appointed to conduct the trial. Later on after his discharge no Spl. Prosecutor has been appointed since last year and there by causing delay in the trial. The accused persons are incarceration for indefinite period thereby their right of freedom and liberty is been taken away due to fault of prosecution.

6. It is their further argument that two of the accused Kiran Ajabe and Rupesh Wadekar had preferred bail application before the Hon'ble High Court. Hon'ble High Court was pleased to make an observations as to despite of directions by the Division Bench of the Hon'ble High Court the prosecution have failed to complete the trial within limitation period as directed. It has been further observed due to delay in completion of trial the accused persons right to speedy trial has been violated and hence the Hon'ble High Court was pleased to grant bail.

7. It is their submission that the accused has preferred the present application to be released on bail on pure ground of parity. His role stands on the same footing as of both accused who are been granted bail by the Hon'ble High Court. It is their submission that accused is having fixed place of residence, he undertakes to attend hearing on day to day basis without fail and hence, be released on bail.

8. The say of Investigating Officer has been called upon. They strongly resisted the application on the ground of criminal history and antecedents of the accused. The Ld. APP Mr. Navale vehemently argued that the accused has suppressed the fact there are previous cases registered against him, the same is deliberately not mentioned in the

application. The para no. 5 of the application, it indicates.....applicant has no prior criminal record. It is submitted there are various crimes registered against the applicant/accused of the similar nature. It is further argued that all the accused persons were released on temporary bail during pandemic of Covid-19. The accused persons while on bail repeated the crime and committed various offences registered at different police stations. The list of crime registered against all the accused who were released on temporary bail during Covid-19 pandemic, are annexed along-with their say. In support of the argument, placed reliance on (i) **Munnesh Vs. State of Uttar Pradesh, in Petition(s) for Special Leave to Appeal (Crl.) No(s). 1400/2025, decided on 03.04.2025 by the Hon'ble Supreme Court of India** and (ii) **Neeraj Sehrawat @ Neeraj Bawaniya Vs. State of Delhi in Bail Appln. No. 1203/2024, decided on 15.01.2025, by the Hon'ble High Court of Delhi.**

9. The original complainant filed his say at Exh. 656 thereby strongly resisted the application by reiterating all the contents in FIR. It is further contented that there are threats to their life and life of his family members at the hands of applicants. It is further submission that accused/applicants being an influential person threatened the victim to withdraw complaint.

10. Heard both rival contentions, perused say filed by the I.O., first information and the investigation papers and charge-sheet, the following points arise for consideration :-

POINTS

1. Whether the applicant/accused is entitled to be released on bail?
2. What order ?

FINDINGS

In the negative.

As per final order, application is rejected.

REASONS

AS TO POINT NOS. 1 & 2 :-

11. It is worth to be taken note that undisputedly the crime is reported of the year 2015. There are overall 9 accused. It further appears from the record the matter could not be proceeded for longer period as there were bail applications one over other filed by the accused persons one after another.

12. It is pertinent to note all the accused persons including applicant were also given an opportunity and a fair chance pertaining to their liberty and were released on temporary bail during period of Covid-19. The accused persons committed breach of bail conditions and repeated the offence. The list of the crime registered are reported by Investigating Agency along-with their say.

13. It is worth to be taken note the Court conscious and aware regarding the freedom and liberty of citizens being their fundamental rights as provided under Indian Constitution Article 21, unless their custody is restricted with due process of law.

14. It is informed as of now 30 witnesses are examined. The last witness examined on 05.09.2024 since then due to withdrawal of Spl. PP, the Investigating Agency had moved Law and Judiciary for appointment of subsequent Spl. Prosecutor. Today Investigating Agency have filed their report Exh. 752 thereby intimating the procedure has been duly followed before the concerned authority for appointment of Spl. Prosecutor and soon within couple of weeks the appointment would be finalised and special prosecutor would be appointed to proceed and conduct the trial.

15. It is apposite to note that the delay is not only caused because of the non appointment of Spl. Prosecutor for the proceedings. There appears a notification and the letter Exh. 639 issued to the DGP Office and thereby it was specifically directed until the new Spl. Prosecutor is appointed, the AGP Mr. M. R. Nawale is given charge of the said case to conduct the trial.

16. The difficulty as it appears for conducting the trial and delay is not the appointment of Spl. Prosecutor. The fact is more beyond that which has been suppressed by the accused persons. It is taken note since the accused Kiran Mohan Ajabe was granted bail by Hon'ble High Court vide order dated 25th October, 2024 in Cri. Appeal No. 63/2024 and released on bail. Subsequently, the accused Kiran Ajabe absconded and is not yet to be traced out. The NBW has been issued dated 25.02.2025, report is filed at Exh. 700 dated 07.03.2025 as to accused has left his place of residence and his whereabouts are not known.

17. The proclamation for seeking presence of accused Kiran Ajabe was also issued and same has been proclaimed within the conspicuous place of his residence within the presence of panchas. The report has been filed at Exh. 722 dated 15.04.2025 along-with panchnama Exh. 724.

18. To secure the presence of accused Kiran Ajabe the further steps were initiated. Notice to surety was issued dated 15.04.2025. The surety appeared before the Court and prayed for time to produce accused. The surety was given ample time and again opportunity to produce accused. The surety also could not produce the accused and he remained absent on the date hearing and hence, NBW against surety is also issued. The Police filed their report Exh. 753 dated 17.06.2025 as to

the surety is also not traced out.

19. It is pertinent and consciously taken note the delay in the trail proceeding is not caused only for the want of prosecution, the accused persons who are released on bail have absconded thereby causing delay. It is further worth to be noted the accused no. 6 Dipak Manjare (applicant) and accused no. 7 Rama @ Ramu Shivaji Jadhav had also preferred Bail Application Exh. 588 and 589, dtd. 06.11.2024. The say of Investigating Officer and victim has been received. The matter is pending for argument since then. It is further necessary to quote today while the other applications are taken for hearing, none for the above applicant/accused present despite of repeatedly called. This is one of the ground which depicts the conduct of the accused persons, resulting into delay in proceeding. It is further informed by Ld. APP the absconding accused Kiran Ajabe after being released on bail by the Hon'ble High Court has committed another crime bearing no. 192/2025, for the offence punishable u/s. 189, 191 of the Bharatiya Nyaya Sanhita, 2023 alongwith offences under Arms Act. The photocopy of the FIR is filed for perusal.

20. It is worth noted one of the accused Yogesh @ Gotya Sarjerao Paradhe had absconded from the custody of jail authorities and subsequently, was arrested. Taking into consideration the above facts and circumstance, the accused persons are facing charges u/s. 363, 366, 302, 395, 201 read with rioting charges along-with 3(2)(v) and 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Today one of witness Subhash Sakharam Shejwal, the father of the deceased is present in the Court as notice was issued to him. The matter could not proceed due to report of surety of accused Kiran Ajabe is awaited. In the above said facts and circumstance, without going into

merits of the case, considering the conduct of the accused persons after being released on bail, there is no substance to grant benefit of parity to the applicant /accused. It is made clear the observations made herein are for the limited purpose for deciding the present applications, it shall not have effect on merits of the case. Hence, I pass the following order -

Order

- i) Bail application Exh. 588 is rejected.
- ii) The prosecution is directed to proceed with the matter without fail on the next date of hearing and to file report of the surety of accused Kiran Ajabe, so as to matter could be proceeded further by separating the trial of the absconding accused.
- iii) No unwarranted adjournments would be granted to both the parties.

Date : 17/06/2025.

(Rajesh S. Gupta)
Addl. Sessions Judge,
Rahata.