

MHTH010035182024



Sessions Case No. 187/2024

**State of Maharashtra Through Daighar Police Station Vs.
Bharat Krushna Bhoir & 2**

Order below Exh. 6

1] Accused No.2 **Dinesh Vanvir Gada**, who is accused in C.R. No. 156/2018 (S.C.No.187/2024), P.S. Shil-Daighar, under Sections 341, 277 of Indian Penal Code and Sections 3(1)(g), 3(1)(q), 3(1)(x), 3(1)(za) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 amended in 2015 has filed this bail application Exh.6 for grant of bail, on the ground that the accused No.2 was falsely implicated in the above offence and there is no prima facie case against him and the allegations are completely false and frivolous. It is also contended that the investigation of the offence is over and charge-sheet has been filed and there is no requirement of physical custody of the accused No.2 for further investigation, if any. Hence, he be released on bail.

2] The prosecution vide their say at Exh. 11 strongly resisted the application on the ground that if the applicant is released on bail then the investigation will be hampered and there is possibility of the applicant tampering with the prosecution witnesses and absconding and also repeating the same kind of offence. Hence, the prosecution has prayed for rejection of bail application Exh.6. The victim / complainant appeared vide application Exh. 12 and strongly opposed the bail application on the ground that the applicant if released on bail would tamper the prosecution witnesses and the further investigation of the offence will be hampered.

Hence, the complainant prayed for rejection of bail.

3] The prosecution case in short is that,

The complainant belongs to Hindu Mahar Community, a Scheduled Caste. The accused No.2 alongwith other accused is alleged to have extinguished the well located at Pardi No.5 by using muscle power and constructed big godowns and consequently deprived the applicant, other persons residing at nearby Sidharthnagar and also alleged to have extinguished boar-well at Pardi No.4 and estopped the way towards the well and thereby committed above said offences under Sections 277, 341 of Indian Penal Code r/w Sec. 3(1)(g) (q)(x)(za) of The Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Act, 1989, Amendment 2018. Hence, police complaint was filed and after due investigation the I.O. filed charge-sheet in the Court.

4] From the above discussion, following points arise for my determination to which I answered with the reasons mentioned below.

	<u>POINTS</u>		<u>FINDINGS</u>
1.	Whether accused No.2 Dinesh Vanvir Gada , is entitled for the anticipatory bail ?	..	In the affirmative
2.	What order ?	..	As per final order.

: **REASONS** :

As to point No. 1 :-

5] I have minutely scrutinized the bail application Exh.6, Say of prosecution Exh.11, complainant Exh. 12, and documents filed on record which consists of FIR in C.R. No. 156/2018, charge-sheet. I have heard the

Ld. Advocate for the applicant, Ld. APP, complainant, at length during the course of argument.

6] After careful perusal of FIR, charge-sheet, it appears that the investigation of the offence is over and charge-sheet has been filed before the Court. However, by virtue of letter dated 27.09.2016 of revenue authorities placed at page No.33/37 of the charge-sheet which clearly states that the revenue authorities could not find the alleged well located at Pardi No.5. Hence, the application moved by the complainant before the revenue authorities was disposed off. Therefore, it clearly appears that the existence of alleged well is in question since by virtue of letter dated 27.09.2016 of revenue authorities placed at page No.33/37 of the charge-sheet which clearly states that the revenue authorities could not find the alleged well located at Pardi No.5. Therefore the existence of subject matter of the dispute itself is in question. Furthermore, as discussed above, the investigation is over and charge-sheet has been already filed. The physical custody of the accused No.1 is not required for investigation. No purpose would be served by keeping the accused No.2 behind bars since his physical custody is not required for further investigation. Nothing remains to be recovered from the accused No.2. The veracity of allegations can be determined at the time of trial, which will take long time for its culmination. In the circumstances, the Accused No.2 is entitled for bail. Certain conditions can be imposed to rest the apprehension of the victim regarding tampering of prosecution witnesses and absconding from justice.

7] After above discussion, I answer point no. 1 arise for my determination in the affirmative and accordingly pass the following order :-

ORDER

1. Bail Application Exh.6 stands allowed.
2. Accused No.2 **Dinesh Vanvir Gada**, accused in C.R.

No.156/2018 P.S. Shil-Daighar (S.C. No. 187/2024) be released on bail on furnishing P.B. & S.B. of Rs.50,000/- (Rs. Fifty Thousand only), with one or two solvent sureties in the like amount.

3. Accused No.2 **Dinesh Vanvir Gada**, shall attend the Trial Court on every date of hearing, unless exempted by the Trial Court.
4. Accused No.2 **Dinesh Vanvir Gada**, shall not either himself or through any other person contact victim or any other prosecution witness and /or shall not give threats or inducement to the prosecution witnesses and shall not enter the area where the victim, family members resides till the evidence of victim, family members is over.
5. Accused No.2 **Dinesh Vanvir Gada**, shall not leave the country without prior permission of the Court.
6. Bail Application Exh. 6 stands disposed off accordingly.

Thane.
Dt : 14.10.2024

(A.S. Bhagwat)
Additional Sessions Judge,Thane.