

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 3083 OF 2024

Sandip Balwant Yadav

.Applicant

Versus

The State of Maharashtra

.Respondent

Mr. Satyavrat Joshi a/w. Ms. Reena Prajapati, Advocate, for the Applicant

Ms. R. V. Newton, APP, for the Respondent – State

Mr. Sanjeev Kadam a/w. Mr. Prashant Raul & Mr. Mayur Sanap i/b.

Ms. Varsha Thorat, Advocate, for the Complainant/Intervenor

CORAM : MADHAV J. JAMDAR, J.

DATE : 02.09.2024

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1. Heard Mr. Joshi, learned Counsel for the Applicant, Ms. Newton, learned APP for the Respondent – State and Mr. Kadam, learned Counsel for the Complainant/Intervenor.

2. This is an Application filed under Section 439 of the *Code of Criminal Procedure, 1973* for regular bail. The relevant details are as under:-

1	C. R. NO.	107 of 2023
2	Date of Registration of F.I.R.	18.04.2023
3	Police Station	Wathar Police Station, Satara
4	Sections Applied	302, 341, 504, 506, 120B r/w. 34 of the Indian Penal Code, 1860

		3 & 25 of the Arms Act, 1959
5	Date of Incident	17.04.2023
6	Date of Arrest	18.04.2023
7	Date of filing of Charge-sheet	14.07.2023

3. Ms. Newton, learned APP for the Respondent – State has opposed the Bail Application by filing affidavit of Mr. Sakharam R. Birajdar, API presently attached to the Mhaswad Police Station, Taluka – Man, District – Satara.

4. Mr. Joshi, learned Counsel for the Applicant submitted that the Applicant was incarcerated since 18.04.2023 and the Charge-sheet has been filed on 14.07.2023. Thus, the investigation has been completed. He submitted that co-accused – Umesh Bhalerao Bhoite has been released on bail by Order dated 28.08.2023 passed by learned Additional Sessions Judge, Satara in Cri. B. A. No. 548 of 2023. Therefore, the Applicant is also entitled to be released on bail. He further submitted that co-accused – Chhaya Namdev Bhoite has also been released on bail by this Court by Order dated 15.01.2024 passed in B. A. No. 3822 of 2023. He, therefore, submitted that the Applicant be enlarged on bail.

5. On the other hand, Ms. Newton, learned APP for the Respondent – State and Mr. Kadam, learned Counsel for the Complainant/Intervenor submitted that this is a case where co-accused

had fired bullets at the deceased due to instigation by the present Applicant and due to which the deceased succumbed to injuries. The present Applicant had actively participated in the incident and in fact, the present Applicant had instigated the Accused No. 1 to fire bullets at the deceased. Both of them submitted that although the present Applicant is in jail, he had threatened the first informant by calling him on his cell phone from the jail by telling him that if he opposes the Bail Application before the learned Sessions Court, Satara then he would be killed. Both of them therefore, submitted that the Applicant is not entitled to be enlarged on bail.

6. The FIR is on page No. 55, relevant portion of the same reads as under :-

“दिनांक 17/04/2023 रोजी सायं. 7.07 वाजता मी सातारा येथे घरी असताना मला पुतण्या साई सुनिल भोईटे याने फोन करून कळविले की, काही वेळापुर्वी वडील व मी मोटारसायकल वरून पिंपोडे बु येथे जात असताना वाघोली पुल ते वाघोली गाव या रस्त्यावर दाजी रवि बळवंत यादव व संदिप बळवंत यादव यांनी आमची मोटारसायकल ला त्यांची कार आडवी मारून मोटारसायकल थांबवली व संदिप दाजी यांन रवि दाजी यास तु सुन्याला गोळ्या घालुन मार असे म्हणाला व रवि दाजी याने वडिलांना त्याचेकडील पिस्तुलाने गोळ्या घातल्या असुन वडील रस्त्यावर जखमी होवुन पडले होते त्यांना गावातील शेरखान पठाण व फरदिन पठाण यांनी जखमी अवस्थेत पिंपोडे बु येथील सरकारी हॉस्पिटल येथे औषधोपचारासाठी नेहले आहे असे सांगितलेने मी लगेच माझी पत्नी सह वाघोली येथे घरी जावुन पिंपोडे बु येथे सरकारी हॉस्पिटल येथे रात्री 7.45 वाजता आलो त्यावेळी भाऊ सुनिल हे मयत झाले असलेबाबत व त्यांची बॉडी डेड हाऊस येथे असल्याचे मला समजले.”

(Emphasis added)

English translation of the same reads as under :-

*“On the date 17.04.2023, at 07:07 p.m. in the evening, when I was present at my home in Satara, **my nephew by name Sai Sunil Bhoite**, telephoned me and said, “some time ago, when my father and I were going to Pimpode Budruk on motor-cycle, **brothers-in-law by names Ravi Balwant Yadav and Sandip Balwant Yadav intercepted our motor-cycle on the road between Wagholi Bridge to Wagholi Village by obstructing their car horizontally. Thereafter, brother-in-law Sandip asked brother-in-law Ravi to kill Sunya by firing bullets and thereupon, brother-in-law Ravi fired bullets at my father from the pistol he was carrying in his possession. Due to the same, my father got injured and fell on the road. Sherkhan Pathan and Fardin Pathan from the village have removed him in an injured condition to the Government Hospital situated at Pimpode Budruk, for providing him medical treatment**”. Therefore, I along with my wife, immediately went to the house at Wagholi and from there reached to the Government Hospital at Pimpode Budruk at 07:45 hrs. in the night where I learnt that my brother Sunil died and that his dead body had been kept in the ‘Dead House’.”*

7. Sai Sunil Bhoite, eye witness to the incident in his statement dated 18.04.2023 stated as under :-

“दि.१७/४/२०२३ रोजी सायं. ०६.३० वा.चे सु. मी व माझे वडील सुनिल शंकरराव भोईटे असे दोघेजण मी.साय. सीटी १०० कं. एमएच/०१/बीए/९७६७ वरून वाघोली येथून घरून वाघोली पुल मार्गे पिंपोडे बु. येथे कामानिमीताने जात होतो. त्यावेळी वडील सुनिल हे गाडी चालवित होते. व मी त्यांचे मागे मोटर सायकल वर बसलो होतो. त्यावेळी आम्ही वाघोली गाव ते वाघोली पुल यांचे मध्ये रस्त्यात असताना आमचे मोटर सायकलला रस्त्याने समोरून येणारे एका कारने आडवी मारून थांबविले त्यावेळी मी पाहीले सदरचे कारमध्ये संदीप दाजी व रवि दाजी असे बसले होते व संदीप दाजी याने रवि दाजी यास तु सुन्याला गोळ्या मार असे म्हणाला व रवि दाजी याने वडीलांना त्याचेकडील पिस्तुलने गाडीतून ३ गोळ्या घातल्या. त्यावेळी वडीलांना गोळ्या लागलेने आम्हीही गाडीवरून खाली पडलो. त्यावेळी ते दोघेजण गाडीतून खाली उतरले त्यावेळी संदीप दाजी परत रवि दाजी यांना म्हणाला याला सोडु नको आणखी गोळ्या मार त्यावेळी रवि दाजी यांनी वडीलांना आणखी दोन गोळ्या मारल्या त्यावेळी मी त्यांना हात जोडुन माझे वडीलांना गोळ्या मारू नका असे म्हणत रडत होतो. परंतु त्यांनी माझे ऐकले नाही व वडील सुनिल शंकरराव भोईटे यांना पिस्तुलने छातीत

पोयत पाठीत हातावर गोळ्या मारल्या व ते दोघे कारने निघून गेले.”

(Emphasis added)

English translation of the same reads as under :-

“On the date 17.04.2023 at around 06.30 hrs in the evening, both, my father by name Sunil Shankarrao Bhoite and I proceeded from our house at Wagholi by motor cycle C.T.100 bearing No. MH/01/BA/9767 and were going to Pimpode Budruk by Wagholi bridge, for some work. At that time, my father Sunil was riding the motorcycle and I was riding pillion. At that time, when we reached on the road between Wagholi village and Wagholi bridge, one car coming from opposite direction on the said road intercepted our motorcycle by obstructing it horizontally. At that time, I saw that brothers-in-law Sandip and Ravi were sitting in the said car and brother-in-law Sandip said to brother-in-law Ravi : “You fire at Sunya” and thereupon, brother-in-law Ravi fired 3 bullets at my father from the pistol that he was carrying, from their car. At that time, as my father got hit by the bullets, we both fell down. Thereupon, they both got down from car and at that time, brother-in-law Sandip again said to brother-in-law Ravi : “Don’t spare him. Fire more bullets” and thereupon, brother-in-law Ravi fired two more bullets at my father. At that time, I was crying and requesting them both with folded hands not to fire bullets at my father. But they did not listen to me and fired bullets from the pistol at my father Sunil Shankarrao Bhoite in his chest, stomach, back portion and hands and thereafter, they both left from there by the said car”.

8. Column No. 17 in the Post Mortem Report reads as under :-

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| <p>17. Surface wounds and injuries-Their nature position, dimensions (measured) and directions to be accurately stated – their probable age and causes to be noted.</p> <p>If bruises be present, what is the condition of the subcutaneous tissue.</p> <p>(When injuries are numerous and cannot be mentioned within the space available they should be mentioned on</p> | <p>1) Lacerated wound present over left arm, medially over middle 1/3 area, situated 11 cm below point of axilla, of size 2.5 cm x 1.5 cm x muscle deep, irregular red.</p> <p>2) Firearm wound of entry present over back, situated 06 cm left lateral to midline, 20cm below and medial to angle of left scapula of size 01 cm x 0.5 cm red, oozing blood, with inverted margins having abrasion collar all round the entry wound, circular in shape. No evidence of tattooing, singeing, burning and blackening. On dissection,</p> |
|---|--|

a separate paper which should be signed).

bullet passes through underlying subcutaneous tissues and muscles and enters in to muscles of group of lower back infero laterally obliquely over to right side posteriorly through and through passing from latissimus dorsi over left side superficially then crossing over to right side of lower back passing posterior to lower thoracic vertebra column and then the bullet passes through and through thoracolumbar fascia then inferior end of right latissimus dorsi plane and then found in right external oblique muscle in subcutaneous tissue. The tract of bullet is contused, hemorrhage and lacerated, red. Not deformed.

3) **Firearm wound of entry present over left side of chest, situated 03 cm below and left lateral to left nipple and 16 cm left lateral to midline, with circular aperture of size 1.5 cm x 0.8 cm, having inverted margins, red, surrounded by abraded collar medially of 1mm and peripheral hemorrhagic infiltration in the surround margins, all over, red.** No evidence of tattooing, singeing, burning and blackening on dissection bullet passes through underlying subcutaneous tissues and muscles and enters left pleural cavity through wound present over left 6th intercostals space muscles and corresponding parietal pleura, then the bullet passes through lower lobe of left lung and corresponding visceral pleura, over to right side of midline and through the right dome of diaphragm then through right lobe of liver and then found in right side of chest wall in anterior axillary line left 10th intercostals space muscles tissue. The tract of bullet is contused, hemorrhagic and lacerated, red. Not deformed.

4) **Firearm wound of entry present over left arm lower half, posteriorly, situated 6 cm above the point of left elbow, with circular aperture of size 1cm x 0.8 cm, having inverted margins, red, surrounded by abraded collar at places and peripheral hemorrhagic infiltration in the surrounding margins, all over, red.** No evidence of tattooing, singeing, burning and blackening. On dissection, bullet passes through underlying subcutaneous tissues and group of bellies of left triceps muscles, bullet then passes through and through the belly of triceps over left side and then found in lodged in lateral border of left scapula in to muscles of infra spinatus fossa. The tract of bullet is contused, hemorrhagic and lacerated, red. Not deformed.

5) **Bullet graze present over right upper arm in middle one-third, antero-medially, of size 06 cm x 01 cm x subcutaneous deep, with abraded margins all over, with evidence of peripheral contusion in the surround margins, irregular, red.**

6) **Firearm wound of entry present over left side of lower part of hypochondriac region of abdomen**

scooted 11 cm above and lateral to umbilicus and 03 cm left lateral to midline, and 30 cm below medial end of left clavicle, with circular aperture of size 1.8 cm x 1.2 cm having inverted margins, red, surrounded by abraded collar all around of 1mm and peripheral hemorrhagic infiltration in the surrounding margins, all over, red. No evidence of tattooing, singeing, burning and blackening on dissection bullet passes thorough underlying subcutaneous tissue and muscle of abdominal wall, then through and through in to abdominal cavity through layer of parietal peritoneum then through and through abdominal part of aorta and found lodged in to body of T 11 vertebra. Body of T 11 vertebra cut fractured. The tract of bullet is contused, hemorrhagic and lacerated, red. Not deformed.

7) Firearm wound of entry present over right side of chest will antero-lateral aspect, situated 10cm above and lateral to right nipple and 18 cm right lateral to midline, of size 01 cm x 0.5 cm with abraded collar all around the margins, margins inverted and red. No evidence of tattooing, singeing, burning and blackening. On dissection, bullet passes through underlying, subcutaneous tissue and muscle, enters right pleural cavity through wound present over left 8th intercostals space muscles and corresponding parietal pleura, then the bullet passes through the upper lobe of right lung then through and through lower lobe and corresponding visceral pleura of both lobes, right dome of diaphragm laterally and then found in right side of chest wall in posterior axillary line corresponding to 12th rib. The tract of bullet is contused, hemorrhagic and lacerated, red. Not deformed.

(Emphasis added)

9. The probable cause of death as recorded in the Post Mortem

Report is as follows :-

“Death due to traumatic and hemorrhagic shock due to multiple firearm injuries over body, articles preserved for chemical analysis”

10. The Column No. 21 of the Post Mortem Report records that total

5 bullets recovered from the body.

11. The Supreme Court in the case of *Y vs. State of Rajasthan*¹ has re-iterated the factors to be borne in mind while considering an application for bail. The relevant paragraph i. e. paragraph 12 reads as under :-

“12. The above principle has been consistently followed by this Court. In Prasanta Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496 this Court held as under:

*“9. We are of the opinion that the impugned order is clearly unsustainable. It is trite that this Court does not, normally, interfere with an order passed by the High Court granting or rejecting bail to the accused. However, it is equally incumbent upon the High Court to exercise its discretion judiciously, cautiously and strictly in compliance with the basic principles laid down in a plethora of decisions of this Court on the point. **It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are:***

*(i) whether there is any **prima facie** or reasonable ground to believe that the accused had committed the offence;*

*(ii) **nature and gravity of the accusation;***

*(iii) **severity of the punishment in the event of conviction;***

*(iv) **danger of the accused absconding or fleeing, if released on bail;***

*(v) **character, behaviour, means, position and standing of the accused;***

*(vi) **likelihood of the offence being repeated;***

*(vii) **reasonable apprehension of the witnesses being***

¹ (2022) 9 SCC 269

influenced; and

(viii) danger, of course, of justice being thwarted by grant of bail.”

12. In this particular case, the first informant's son - Sai Sunil Bhoite is an eye witness to the incident. In the incident in question, Accused No. 1 fired bullets at the deceased. The present Applicant is Accused No. 2. The statement of the eye witness clearly shows that though Accused No. 2 had not actually fired bullets at the deceased, however, Accused No. 2 had not only instigated Accused No. 1 to the great extent but ensured that Accused No. 1 fires multiple bullets at the deceased. There are in all five bullets recovered from the body of the deceased, as mentioned on page No. 121 in Column No. 21 of the Post Mortem Report. The Column No. 17 in the Post Mortem Report also shows that more than 5 bullets have been fired at the deceased.

13. Thus, there is *prima facie* and reasonable ground to believe that the accused had committed the offence punishable under Section 302 of the Indian Penal Code punishable with life imprisonment.

14. It is required to be noted that the present Applicant although incarcerated and is in Kalamba Central Prison, Kolhapur, from the jail, he had made a call from a cell phone to the informant and threatened him that he would be killed, if the Bail Application of the present Applicant made before the learned Trial Court would be opposed. The

relevant portion of the FIR dated 28.07.2024 in this behalf reads as

under :-

“दिनांक 30/03/2024 रोजी मी सातारा तालुका पोलीस ठाणे येथे मी माझे कर्तव्यावर हजर असताना सातारा तालुका पोलीस स्टेशन अदखलपात्र गु. र. नं. 354/2024 भा.द.वि.सं. कलम 507 प्रमाणे तक्रारदार मोहन शंकर भोईटे मुळ — वाघोली ता. कोरेगाव जि. सातारा, सध्या रा. शाहुनगर ता. जि. सातारा यांनी तक्रार दिली होती की, दि.30/03/2024 रोजी सायंकाळी 16.27 वा. चे सुमारास तक्रारदार हे मौजे जुने, ता. जि. सातारा गावचे हद्दीत असताना त्यांना त्यांचे मो. नं. 9637224809 यावर मोबाईल क्रमांक 9689815087 यावरून फोन आला त्यावेळी पुढील व्यक्ति म्हणाला कि, मी बापु यादव कोल्हापुर जेल मधुन बोलतोय त्यावर तक्रारदार यांनी कोण बापु यादव असे विचारले असता मी संदीप यादव बोलतोय असे सांगुन सातारा कोर्टातील जामीन अर्जास विरोध केलास तर तुला मारून टाकीन असे म्हणुन तक्रारदार यांना मोबाईलवरून शिवीगाळ, दमदाटी करून जीवे मारण्याची धमकी दिली आहे म्हणुन अदखलपात्र गुन्हा दाखल झालेनंतर पोलीस ठाणे अंमलदार मपोहवा गायकवाड ब नं 2221 यांनी सदरचे अदखलपात्र गुन्हाची चौकशी आमचेकडे दिली. त्यानुसार आम्ही सदरचे अदखलपात्र गुन्हाची चौकशी करिता असता गुन्हाचे गांभीर्य लक्षात घेवुन मा वरिष्ठांचे तोंडी आदेशाने आम्ही सदरचे अदखलपात्र गुन्हाचा तपास करणेस मंजुरी मिळणेकामी मा प्रथमवर्ग न्यायदंडाधिकारी सो सातारा यांचेकडे पत्रव्यवहार करून विनंती केली असता आम्हाला मा प्रथमवर्ग न्यायदंडाधिकारी सो सातारा यांचेकडुन दि.02/04/2024 रोजी अदखलपात्र गुन्हाचा तपास करणेची परवानगी मिळाली त्यानुसार आम्ही सदर गुन्हाचा तपास सुरू केला. अज्ञात मोबाईल धारक व सिमकार्ड धारकाचे नांव निष्पन्न होणेबाबत आम्ही मा पोलीस अधिक्षक सो सातारा यांना तांत्रिक माहिती मिळणेबाबत पत्रव्यवहार केला असता सदरची तांत्रिक माहिती प्राप्त झाली. आम्ही त्याची पडताळणी केली असता त्यामध्ये प्राप्त माहितीनुसार नमुद मोबाईल सिमकार्ड क्रं 9689815087 धारकाचे नांव व पत्ता आकाश सुरेंद्र भाकरे रा मानेगल्ली नेल्ले, ता. वाळवा, जि. सांगली असे असल्याचे निष्पन्न झाले. त्यामुळे आम्ही लागलीच मा उपविभागीय पोलीस अधिकारी सो सातारा शहर विभाग यांना लेखी पत्राद्वारे पर जिल्ह्यात तपासकामी जाण्यासाठी विनंती केली त्याप्रमाणे त्यांनी त्यांचेकडील जा. क्र. 4840/2024 दि. 16/07/2024 रोजीने परजिल्ह्यात तपासकामी जाणेस परवानगी दिली.

त्याप्रमाणे आम्ही दि. 27/07/2024 रोजी मा पोलीस निरीक्षक तांबे सो सातारा तालुका पोलीस ठाणे यांचे आदेशान्वये नमुद अदखलपात्र गुन्हाचे तपासकामी खाजगी वाहनाने कासेगांव, जि. सांगली पोलीस स्टेशन येथे पोलीस स्टाफसह गेलो. तेथील पोलीस स्टाफची मदत घेवुन त्यांचे हद्दीतील नेल्ले, ता. वाळवा जि. सांगली येथील इसम आकाश सुरेंद्र भाकरे रा. नेल्ले, ता. वाळवा, जि. सांगली यास नमुद गुन्हाचे चौकशीकामी कासेगांव पोलीस ठाणेस आणले. त्यावेळी त्याचेकडे विचारपुस केली असता त्याने सदरचे मोबाईलचे सिमकार्ड क्रं. 9689815087 हे मी गेली पाच महिन्यांपुर्वी फिरते विक्रेते यांचेकडुन घेवुन माझा गावातील मित्र संकेत

सोमाजी वाठारकर रा. नेलें ता. वाळवा जि. सांगली यास वापरणेस दिले असल्याचे सांगितलेने आम्ही पुन्हा संकेत सोमाजी वाठारकर रा नेलें ता वाळवा जि सांगली यास कासेगांव पोलीस ठाणे येथे बोलावुन घेतले असता त्यावेळी त्या दोघांकडे विचारपुस केली असता त्यांनी असमाधानकारक व उडवाउडवीची उत्तरे देवुन चौकशीकामी सहकार्य करीत नसल्याचे आमचे निदर्शनास आले. त्यावेळी आम्ही लागलीच अधिक तपास करणेकरिता त्यांना मा वरिष्ठांचे आदेशाने सातारा तालुका पोलीस स्टेशन येथे आणण्यात आले त्यावेळी दोन्ही इसमांना मा वरिष्ठांना विश्वासात घेवुन चौकशी केली असता यातील निष्पन्न सिमकार्ड हे आकाश सुरेंद्र भाकरे रा. नेलें, ता वाळवा जि सांगली याचे नावावर असुन त्याने ते सिमकार्ड हे त्याचा मित्र संकेत सोमाजी वाठारकर रा नेलें ता वाळवा जि सांगली या गावातील मित्राला त्याचेवर दाखल असले मनुष्यवधाचा गुन्हा दाखल होवुन तो कळंबा कारागृह जि कोल्हापुर येथे एक वर्ष शिक्षा भोगुन पुन्हा जामीनावर गावात आला असलेचे माहीत असताना सुध्दा त्याने सदरचे सिमकार्ड त्यास दिले व संकेत याने आकाश भाकरे याचे संमतीशिवाय ते सिमकार्ड हे शिक्षा भोगत असलेला सौरभ विकास शिंदे हा तारखेस सांगली सेशन कोर्टात आला त्यावेळी त्याने संकेत वाठारकर यास सिमकार्डची मागणी केली होती. तसेच सदरचे सिमकार्ड तु पुढच्या तारखेस दिपक खोत हा सांगली सेशन कोर्ट येथे येणार आहे त्यावेळी सिमकार्ड त्यास दे असे सांगितल्याने संकेत याने आकाश याचेकडुन घेतलेले सिमकार्ड हे सांगली सेशन कोर्ट येथे पोलीसांची नजर चुकवुन दिपक खोत याचेकडे सिमकार्ड दिले. सदरचे सिमकार्ड हे कळंबा कारागृहातील शिक्षा भोगत असलेल्या आरोपीस आपसात संगनमत करुन निष्पन्न सामनेवाले 1) आकाश सुरेंद्र भाकरे 2) संकेत सोमाजी वाठारकर दोन्ही रा. नेलें ता. वाळवा जि. सांगली यांनी स्वतःचे आर्थिक फायद्यासाठी कट रचला आहे. तसेच त्यांनी कळंबा कारागृह जिल्हा कोल्हापूर येथे शिक्षा भोगत असलेल्या आरोपींना सिमकार्ड देवुन त्यांनी साक्षीदार, फिर्यादी यांना फोनवरून फोन केल्याची शक्यता असुन सदरचे घडले गुन्हास अपप्रेरणा दिली आहे. तसेच या दोघांनी कळंबा कारागृहामध्ये कैद्यास सिमकार्ड पुरविले आहे. तसेच लोकसेवकाने रितसर दिले आदेशाचे उल्लंघन केले आहे. त्याबाबत पुढील तपास होणे अत्यंत गरजेचे असल्याने माझी त्यांचेविरुद्ध सरकारतर्फे भा.द.वि.सं. कलम – 188, 120(ब), 109, 34 व कारागृह अधिनीयम 1894 चे कलम 42 प्रमाणे कायदेशीर फिर्याद आहे.”

(Emphasis added)

English translation of the same is as under :-

“On the date 30.03.2024, when I was present on my duty in Satara Taluka Police Station, the Complainant by name Mohan Shankar Bhoite, hails from Wagholi, Taluka – Koregaon, District – Satara and presently residing at Shahu Nagar, Taluka and District – Satara, concerned in Satara Taluka Police Station Non-cognizable Crime Registration No. 354/2024, under Section 507 of the Indian penal Code had lodged a complaint as under:

On the date 30.03.2024, at 16:27 hrs. in the evening, when the Complainant was present within the boundary of Village – Nune, Taluka and District – Satara, he received a phone call on his Mobile Phone No. 9637224809 from a Mobile Phone No. 9689815087. The caller of the said phone call said, “I am Babu Yadav, calling from Kolhapur Jail”. Thereupon, when Complainant asked him, “which Babu Yadav”, the said Caller said, “I am Sandeep Yadav speaking” and further said, “if you oppose to the Bail Application that has been filed in Kolhapur Court, I will kill you”. Thus, by saying so, on mobile phone, he hurled abuses at the Complainant, intimidated him and threatened to kill him. After the Non-Cognizable Offence as aforesaid was registered, the Police Station House Officer – Woman Police Head Constable by name Gaikwad, Buckle No. 2221, assigned the investigation into the said offence to me. Accordingly, while I was carrying out investigation into the said Non-cognizable offence, considering the seriousness of the offence, I submitted an application to the Judicial Magistrate, First Class, Satara for granting permission to carry out investigation into the said non-cognizable offence. In pursuance thereof, on the date 02.04.2024, I received permission from the Learned Judicial Magistrate, First Class, Satara to carry out investigation into the said non-cognizable offence and pursuant thereto, I started carrying out investigation into the said offence. In order to get revealed the name of the unknown Mobile Phone Holder and the SIM Card Holder, I made correspondence with the Superintendent of Police, Satara for getting technical information and in pursuance thereof, I received the said technical information. When I perused the same, from the information so received, it was revealed that the name and address of the holder of the Mobile SIM Card No. 9689815087 was Aakash Surendra Bhakare, residing at – Mane-lane, Nerle, Taluka – Walva, District – Sangli. Therefore, immediately, I made correspondence with the Sub Divisional Police Officer, Satara City and requested him to grant me permission to go to another district for the purpose of carrying out investigation. In pursuance

thereof, the Sub Divisional Police Officer, Satara City, under his letter bearing No. 4840/2024, dated 16.07.2024, granted me permission to go to another district for the purpose of carrying out investigation.

In pursuance thereof, on the date 27.07.2024, pursuant to the orders received from the Police Inspector by name Shri Tambe, attached to Satara Taluka Police Station, I along with Police Staff, by a private vehicle, went to Kasegaon Police Station, District – Sangli for carrying out investigation into the said non-cognizable offence. Thereafter, with the assistance of the Police Staff attached to the said Police Station, we went to Nerle, Taluka – Walva, District – Sangli, situated within the local limit of said Police Station and brought a person by name **Aakash Surendra Bhakare**, resident of Village – Nerle, Taluka – Walva, District Sangli to Kasegaon Police Station for making inquiry with him into the said offence. **At that time, when inquiry was made with him, he said, “five months ago, I had purchased a Mobile SIM Card No. 9689815087 from a mobile vendor and had given the same to my friend by name Sanket Somaji Watharkar, resident of Nerle, Taluka – Walva, District – Sangli from my village, to use the same.** Therefore, I again called Sanket Somaji Watharkar, resident of Nerle, Taluka – Walva, District – Sangli to Kasegaon Police Station and when I made inquiry with both of them, they gave unsatisfactory and evasive replies and from that, I came to know that they were not co-operating in the work of investigation and therefore, pursuant to the Orders received from the Superior Officers, I immediately brought them to Satara Police Station for carrying out further investigation. At that time, when the Superior Officers took both the said persons into confidence and made inquiry with them, it was revealed therein that, **the said SIM Card involved in this offence is standing in the name of Aakash Surendra Bhakre, resident of Village – Nerle, Taluka – Walva, District – Sangli and that despite knowing that an offence of homicide was registered against his friend by name Sanket Somaji Watharkar of Village – Nerle, Taluka – Walva, District – Sangli who had undergone**

one-year imprisonment in Kalamba Prison in District – Kolhapur and had again come out on bail, he gave the said SIM Card to him and further, without the consent of Aakash Bhakre, Sanket gave the said SIM Card to one convict by name Saurabh Vikas Shinde, who was undergoing a sentence and who had demanded a SIM Card from Sanket Watharkar when he was brought to Sangli Sessions Court on the date of hearing of his case and had told Sanket to hand it over to Dipak Khot when he would be brought to Sangli Sessions Court for hearing of his case, on the next date of hearing and that accordingly, Sanket handed over the said SIM Card, taken from Aakash, to Dipak Khot behind the back of Police at Sangli Sessions Court. Thus, the revealed opponents by names (1) Aakash Surendra Bhakre and (2) Sanket Somaji Watharkar, both residing at Village – Nerle, Taluka -Walva, District – Sangli, with an intention to make financial gain, had hatched a plot in collusion with the Accused person undergoing a sentence in Kalamba Prison. Further, it is possible that after they giving the said SIM Card to the Accused persons who are undergoing a sentence in Kalamba Prison in Kolhapur District, the said Accused persons might have made a telephone call from the said phone to the Witnesses and Complainant and thus, they both have abetted them to commit the offence that has been committed. Further, these two persons have supplied a SIM Card to a Convict in the Kalamba Prison and thus, have violated the Order duly given by a Public Servant. As it is very much necessary to carry out further investigation into the same, I have a lawful complaint against them on behalf of the State, under Sections 188, 120(B), 109, 34 of the Indian Penal Code and Section 42 of the Prison Act, 1894”.

15. Thus, it is clear that the Applicant has threatened the Informant by calling on his cell phone from the jail. Thus, there is reasonable apprehension that witnesses will be influenced and threatened, if the Applicant is released on bail.

16. The factual position on record shows that there is danger of justice being thwarted by grant of bail.

17. Accordingly, no case is made out for grant of bail. The Bail Application stands rejected.

[MADHAV J. JAMDAR, J.]