

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

932 CRIMINAL APPLICATION NO.212 OF 2021

VITTHAL MAHADEV BAWALE AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Mr. A.B. Hawale, Advocate and Mr. V.S. Salve, Advocate h/f Mr. S.P. Urgunde,
Advocate for applicants

Mr. A.M. Phule, APP for respondent Nos.1 and 2

Mr. V.S. Undre, Advocate for respondent Nos.3 and 4

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 20th APRIL, 2022

ORDER :

1 Present application has been filed under Section 407 and/or 482 of the Code of Criminal Procedure, 1973 by the original informant for transfer of criminal proceedings bearing Regular Criminal Case No.63/2018, Regular Criminal Case No.21/2019, Regular Criminal Case No.21/2020 and Regular Criminal Case No.23/2020 pending before learned Judicial Magistrate First Class, Bhoom, Dist. Osmanabad to the Court of Sessions at Beed and Judicial Magistrate First Class, Beed. For the convenience the chart is given as to how the petitioners are involved in which case and offence.

Sr.No.	Case No.	Offence U/Sec.	Name of accused
01	R.C.C. No.63/2018	324, 323, 504, 506 r.w.s. 34 of the Indian Penal Code	1) Prithviraj Ranjeet Dhage 2) Sandip Pandurang Bawale 3) Ranjeet Shankar Dhage
02	R.C.C. No.21/2019	324, 323, 504, 506 r.w.s. 34 of the Indian Penal Code	1) Tanaji Vitthal Dhage 2) Balaji Vitthal Dhage 3) Vitthal Pandurang Dhage 4) Mangalbai Vitthal Dhage
03	R.C.C. No.21/2020	143, 147, 148, 452, 326, 336, 323, 427, 504, 506 of the Indian Penal Code and 135 of Maharashtra Police Act.	1) Pandit Vitthal Dhage 2) Balaji Vitthal Dhage 3) Tanaji Vitthal Dhage 4) Vitthal Pandurang Dhage 5) Haribhau Pandurang Dhage 6) Atul Haribhau Dhage 7) Rajubhau Haribhau Dhage 8) Jyoti Tanaji Dhage 9) Shweta Atul Dhage 10) Pallavi Balaji Dhage
04	R.C.C. No.23/2020	143, 147, 148, 149, 307, 327, 324, 336, 323, 504, 506 of the Indian Penal Code 135 of Maharashtra Police Act.	1) Maruti Ramling Choube 2) Ranjeet Shankar Dhage 3) Sandip @ Babasaheb Pandurang Bawale 4) Mahadev Baburao Bawale 5) Vitthal Mahadev Bawale 6) Prithviraj @ Sampat Ranjeet Dhage 7) Surekha Maruti Choube 8) Rekha Ranjeet Dhage 9) Priyadarshani @ Priya Sandip Bawale 10) Nilawati Mahadeo Bawale 11) Pandurang Baburao Bawale 12) Dr. Kuldip Pandurang Bawale

2 Heard learned Advocate Mr. A.B. Hawale and learned Advocate Mr. V.S. Salve holding for learned Advocate Mr. S.P. Urgunde for the

applicants, learned APP Mr. A.M. Phule for respondent Nos.1 and 2 and learned Advocate Mr. V.S. Undre for respondent Nos.3 and 4.

3 It has been vehemently submitted on behalf of the applicants-petitioners that informant Balaji Vitthal Dhage is resident of village Chinchpur Dhage, Tq. Bhoom, Dist. Osmanabad. His brother is Advocate and he did not allow any Advocate from the Bar Association, Bhoom to represent the applicants. Though in many matters the offences were bailable; yet, certain applicants were required to remain in jail, as none of the Advocates had come forward to represent the applicants. However, on the next day the Advocate from Osmanabad was called to apply for bail, but that Advocate was also pressurized to withdraw his appearance. There are cross complaints against each other and taking into consideration the fact that the applicants are required to bring Advocate from Osmanabad or Aurangabad they are apprehending that they may not get fair opportunity. The applicants may not get proper legal advice and in fact, this act on the part of the Bar Association, Bhoom is violative of the personal liberty of the applicants enshrined under Article 21 of the Constitution of India. Therefore, the applicants pray that all the four matters be transferred to the adjoining district Beed.

4 The learned APP as well as learned Advocate representing

respondent Nos.3 and 4 strongly opposed the application and submitted that the reasons given are false. The applicants are properly represented by Advocate. The grounds mentioned are not befitting in Section 407 or 482 of the Code of Criminal Procedure.

5 It will not be out of place to mention here that the status report was called from learned Judicial Magistrate First Class, Bhoom in respect of four cases. By letter dated 21.03.2022 the status report has been submitted. It is stated that in Regular Criminal Case No.63/2018 there are 09 witnesses in the prosecution's list. The case is pending for securing attendance of the witnesses, summonses have been issued and it will take about six months for disposal of the case. As regards Regular Criminal Case No.21/2019 is concerned, the same position is there. Regular Criminal Case No.23/2020 is exclusively tribal by the Court of Sessions and the case has been committed to the Court of Sessions at Bhoom. Regular Criminal Case No.21/2020 though tribal by the Court of Judicial Magistrate First Class, is the counter case to Regular Criminal Case No.23/2020. Therefore, that case is also committed to the Court of Sessions. Therefore, taking into consideration the assurance and the fact that now the applicants have been represented by Advocate, the transfer of the cases is not the solution. It would be rather inconvenient to the witnesses in all the cases. With necessary directions to

expedite the case and make it time bound the application can be disposed of.
Hence, following order.

ORDER

1 Application stands rejected. However, learned Judicial Magistrate First Class, Bhoom is directed to expedite the trial of Regular Criminal Case No.63/2018 and Regular Criminal Case No.21/2019 and dispose it of within six months from the receipt of the writ.

2 The learned Judicial Magistrate First Class, Bhoom should give full opportunity to the applicants-accused involved to defend themselves by the Advocate of their choice, however, while doing so the concerned accused persons shall not take unnecessary adjournments.

3 Learned Additional Sessions Judge, Bhoom is directed to expedite the trial of Regular Criminal Case No.21/2020 and Regular Criminal Case No.23/2020 and dispose it of within one year from the receipt of the writ.

(Smt. Vibha Kankanwadi, J.)