

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 3206 OF 2024

Dr.Virendrasinh Sharadchandra Tawade ...Applicant

Versus

The State of Maharashtra & Anr. ...Respondents

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Ms. Pushpa Ganediwala a/w Mr. Virendra Ichalkaranjekar, Ms. Siddh
Vidya i/by Ms. S.D. Khot for Applicant.

Mr. Amit Singh, a/w Ms. Payal Shah i/by Abhay Nevagi and
Associates for Respondent No.2.

Ms. Veera Shinde, APP for the Respondent No.1-State.

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CORAM : SHIVKUMAR DIGE, J.

DATE : 14th OCTOBER, 2025

P.C.

1. By this application, applicant is seeking to quash and set aside impugned order passed by the learned Additional Sessions Judge, Kolhapur cancelling the bail granted to the applicant and seeking regular bail in Crime No.39 of 2015 registered with Rajarampuri Police Station, District Kolhapur for the offences punishable under Sections 302, 307, 120(B), 109, 201 r/w Section 34 of the Indian Penal Code (for short "IPC") and Sections 3(1)/(25), (1B)(a), 5/27 of the Arms Act, 1959.

2. It is prosecution's case that on 16.02.2015, Comrade Govind Pansare and his wife were walking towards their house, at that time two bike-borne unknown assailants fired at them from a pistol and ran away. The injured Pansare and his wife were admitted in the hospital. Shri. Pansare succumbed to injuries and his wife survived. It is alleged that the applicant is mastermind of said attack.

3. It is contention of learned counsel for applicant that the applicant was released on bail by learned Additional Sessions Court, Kolhapur by order dated 18.02.2018. The said order was challenged by the State before this Court. This Court by order dated 21.03.2023 (Coram: Bharti Dangre, J.) permitted the prosecution to withdraw the application for cancellation of bail with liberty to file fresh application for cancellation of bail before Additional Sessions Court, Kolhapur. Thereafter, the prosecution filed an application before the learned Sessions Court on 16th July, 2024 for cancellation of bail of the applicant on the ground of recording statement of witness Sagar Lakhe as a subsequent event. Learned counsel further submitted that after hearing all the parties, the learned Sessions Judge has cancelled the bail of the applicant, which is erroneous. Learned counsel further submitted that as per the prosecution's case, the role attributed to the applicant is of main conspirator. Previously, in spite of the said

allegations, bail was granted to the applicant. In subsequent event, statement of Sagar Lakhe is recorded after three and half years of the incident, i.e. on 17.09.2018. In his statement, he has referred role of applicant as of conspirator. The role attributed to the applicant by other witnesses and Sagar Lakhe is same but the learned Sessions Court has not considered this fact. The learned Sessions Judge has reviewed his own order passed earlier, which he has no power to do so. Learned counsel further submitted that initially the applicant was behind bar for around two years and after cancellation of bail, for around one year and four months. Investigation is completed and charge-sheet has been filed. The co-accused having similar allegations have been released on bail by this Court. Hence, the applicant is entitled for bail on principle of parity. There is no progress in the trial and requested to allow the application, and quash and set aside the order passed by the learned Sessions Judge.

4. It is contention of learned APP along with learned counsel for Respondent No.2 that Comrade Pansare was murdered in broad day light. During investigation, it revealed that the applicant has played main role on the attack on Shri. Pansare. He is main conspirator. Though he was previously released on bail, an arm haul was seized at Nalasopara by the Police in 2018. After that incident,

statement of witness Sagar Lakhe is recorded and in the said statement, the role of applicant is revealed. The learned Sessions Judge has considered all the aspects and has passed well reasoned order. No interference is required in it as the role attributed to the applicant is of main conspirator. Learned APP further submitted that on the day of incident, the applicant was present in Kolhapur. If he is released on bail, he may threaten the prosecution witnesses or may hamper the trial pending before the Sessions Court and requested to reject the application.

5. Learned counsel for Respondent No.2 relied upon **State (Delhi Administration) Versus Gurcharan Singh and Others ILR (1978) 1 Delhi, Gurcharan Singh and Others Versus State (Delhi Administration, (1978) 1 SCC 118, Puran Versus Rambilas and Another (2001) 6 SCC 338, Kanwar Singh Meena Versus State of Rajasthan and Another (2012) 12 SCC 180, Neeru Yadav Vs State of Uttar Pradesh and Anr. (2014) 16 SCC 508, Abdul Basit alias Raju and Others Versus Mohd. Abdul Kadir Chaudhary and Another (2014) 10 SCC 754, Deepak Yadav Versus State of Uttar Pradesh and Another (2022) 8 SCC 559, Rajesh Thomas Menzes Versus State of Maharashtra and Another 2024 SCC OnLine Bom. 355 Ankush Vipin Kapoor Versus National Investigating Agency (2024) SCC OnLine SC**

3750, National Investigating Agency Versus Ankush Vipan Kapoor (2024) SCC OnLine P&H 233, Ajwar Versas Waseem and Another (2024) 10 SCC 768.

6. Learned counsel for Respondent No.2 submitted that the role of the applicant is interconnected in two more matters and in Dabholkar case also. Learned counsel for Respondent No.2 further submitted that the learned Sessions Judge has not reviewed his own order but has passed the order on the basis of subsequent event.

7. It is contention of learned counsel for the applicant that the applicant has been acquitted in Dabholkar case. Previously, while granting bail, the learned Sessions Judge has observed that there are two contradictory charge-sheets and on that basis, bail was granted to the applicant.

8. I have heard all the learned counsels, perused the order passed by the learned Additional Sessions Judge, Kolhapur. It appears from record that total four charge-sheets have been filed in the present case. The allegations against the applicant are that he is close associate of absconding shooter and prime accused No.4 Sarang Akolkar. The E-mail dated 8th June, 2009 of the co-accused with other accused/absconding accused and the applicant highlights the

association with the absconding accused and also the motive of the applicant towards assassinating intellectuals such as deceased Comrade Govind Pansare. It is alleged that applicant had intensively organized and carried out arms/pistols firing, bomb making, exploding training camps and travelled in various states to recruit youngsters and provide such training to eliminate intellectuals who are considered '*durjan*' by them. It is alleged that applicant and accused No.8 Amit Degvekar in 2014 before the assassination heavily visited Kolhapur and attempted to influence youngsters to join pistol firing and bomb making camps by manipulating them by alleging Hindu religion is in danger. The applicant was present at Temblai Temple Kolhapur on the day of incident. It is alleged that the applicant and accused No.8, Amit Degvekar and around 20 others held meeting at Jalna in 2011-12, wherein it was discussed that '*Durjans*' speaking against Hindu religion should be murdered. It is alleged that the applicant had visited Aster Aadhar hospital two days prior to the murder and had inquired, if Comrade Pansare was admitted there.

9. In view of above allegations, it appears from record that Amit Degvekar, accused No.8 has been released on bail by this Court. The E-mail which highlights association of applicant with absconding

accused No.4 Sarang Akolkar is of the year 2009, whereas the present crime happened in the year 2015 i.e. after 6 years of said E-mail. To prove the connection of the applicant on the day of incident at Kolhapur, evidence is required. In first charge-sheet, the accused No.1-Samir Gaikwad was shown as the person who fired at Comrade Pansare and he has been identified by eye witness Master Atharv Shinde in test identification parade. Mrs. Uma Pansare has identified accused No.3-Vinay Pawar and accused No.4-Sarang Akolkar as assailant on basis of their photographs. It appears that there are contradictions in the statements of two eye witnesses about who fired at Comrade Pansare.

10. In the statement of Sagar Lakhe, the role attributed to the applicant is of conspiracy. Therefore, except the allegations of conspiracy, no other role is attributed to the applicant. In Lakhe's statement, there is no reference of the applicant's meeting with the accused No.1 Samir Gaikwad nor absconding accused Vinay Pawar and Sarang Akolkar who allegedly fired at Comrade Pansare. From the statement of Sagar Lakhe it appears that prior 4 to 5 days of the incident, there was meeting between the applicant and Accused No.8-Amit Degvekar and in the said meeting it was planned that Chalu (Mechanic) and co-accused Sachin Andure were given task to fire on

Comrade Pansare and it was planned that Mechanic would drive the bike and Andure would fire at Comrade Pansare. This witness had assumed that the said attack on Comrade Pansare was made by these two persons. The statement of this witness given to the Police refers role of firing at Comrade Pansare to the other accused. It contradicts the prosecution's case. Sachin Andure has been released on bail by this Court. The other co-accused mentioned in the statement of Sagar Lakhe have already been released on bail by this Court, who were part of conspiracy.

11. It is settled law that the bail can be cancelled on four grounds; if accused has misused the liberty, flouted the conditions of bail order, bail was granted in ignorance of statutory provisions restricting the powers of the Court in granting bail and bail was procured by misrepresenting or fraud. In the present case, no case is made out against the applicant under above grounds. No doubt, the bail can be cancelled if there were new developments or changed circumstances, but in the present case, there is no new development or changed circumstances. Mere recording statement of witness Sagar Lakhe that too after three and half years of the incident cannot be a ground to cancel the bail of the applicant. This Court (CORAM : ANIL S. KILOR, J.) has questioned the reliability of the statement of

Sagar Lakhe recorded after three and half years, but the learned Sessions Judge has not considered this fact. While cancelling the bail, the learned Sessions Judge has reviewed his own order, which is not permissible. When applicant was already released on bail on the same allegations, the learned Sessions Judge should not have cancelled the bail on the same allegations. It appears that the learned Sessions Judge has reviewed own order passed by his learned predecessor and has observed about the statement given by Sagar Lakhe with the statement given by other prosecution witnesses, which were already considered by the previous Judge while granting bail to applicant. The allegations against the applicant are of conspiracy. The other co-accused having the same role have been released on bail. Considering these facts, I am inclined to allow the application.

12. I have gone through the case laws cited by learned counsel for Respondent No.2, the facts of the cited case laws and present case are different. Hence, not applicable to this case.

13. In view of above, I pass the following order:

ORDER

(i) The application is allowed.

- (ii) The order passed by the learned Sessions Judge, Kolhapur below Exh.261 in Sessions Case No.3 of 2016 dated 16.07.2025 for cancelling the bail of the applicant is quashed and set aside.
- (iii) The applicant be enlarged on bail in Crime No.39 of 2015 registered with Rajarampuri Police Station, District Kolhapur, on executing P.R.Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.
- (iv) If the applicant is not in jail in any other offence, on release of the applicant in the present crime, he shall attend Rajarampuri Police Station, Kolhapur on every 1st and 16th of each month between 10.00a.m. and 12.00 noon till conclusion of the trial, except on the date of trial of this case or any other case;
- (v) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also not tamper with the evidence;
- (vi) Liberty is granted to the State for cancellation of bail if the applicant breaches any condition or misuses the liberty or commits similar offence;
- (vii) The applicant shall attend the trial before the trial Court regularly on every date unless exemption is granted by the trial Court.

14. Learned counsel for the Respondent No.2 seeks stay of this order, I am not inclined to stay the order, as the applicant was already granted bail.

15. The application is allowed in the aforesaid terms and is accordingly disposed off.

16. It is made clear that the above observations are made only for the purpose of granting bail and the Trial Court shall decide the case on its own merits in accordance with law and uninfluenced by the observations made in this order.

17. All concerned to act on the authenticated copy of this order.

(SHIVKUMAR DIGE, J.)