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Cri. B. A. 3780/2024, 3799/2024, 3626/2024,
3432/2024, 4021/2024 and 3517/2024

	 <p>DISTRICT COURTS MAHARASHTRA सत्यमेव जयते</p>	<p>CRI BAIL APPLN NO. 3780/2024 CNR No. MHPU01-010149-2024 C. R. No. 306/2024 Yerwada Police Station</p> <p>Shivani Vishal Agarwal Vs. State</p>
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ALONGWITH

	 <p>DISTRICT COURTS MAHARASHTRA सत्यमेव जयते</p>	<p>CRI BAIL APPLN NO. 3799/2024 CNR No. MHPU01-010218-2024 C. R. No. 306/2024 Yerwada Police Station</p> <p>Vishal Surendrakumar Agarwal Vs.State</p>
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ALONGWITH

	 <p>DISTRICT COURTS MAHARASHTRA सत्यमेव जयते</p>	<p>CRI BAIL APPLN NO. 3626/2024 CNR No. MHPU01-009737-2024 C. R. No. 306/2024 Yerwada Police Station</p> <p>Shrihari Bhimrao Halnor Vs.State</p>
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ALONGWITH

	 <p>DISTRICT COURTS MAHARASHTRA सत्यमेव जयते</p>	<p>CRI BAIL APPLN NO. 3432/2024 CNR No. MHPU01-009168-2024 C. R. No. 306/2024 Yerwada Police Station</p>
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2.. Cri. B. A. 3780/2024, 3799/2024, 3626/2024,
3432/2024, 4021/2024 and 3517/2024

		Ajay Aniruddha Taware Vs. State
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ALONGWITH

		CRI BAIL APPLN NO. 4021/2024 CNR No. MHPU01-010821-2024_ C. R. No. 306/2024 Yerwada Police Station Ashpak Basha MakandarVs.State
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ALONGWITH

		CRI BAIL APPLN NO. 3517/2024 CNR No. MHPU01-009368-2024_ C. R. No. 306/2024 Yerwada Police Station Amar Santosh Gaikwad Vs.State
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COMMON ORAL ORDER BELOW EXH. 1

1. These are the applications moved through e-filing, by applicants above named seeking their release on regular bail in Special Case (ACB) No. 917/2024 arising out of Crime No. 306/2024 for the offences punishable under Sec. 304, 279, 337, 338, 427, 120-B, 201, 213, 214, 466, 467, 468, 471, 109 r/w S. 34 of the Indian Penal Code and S. 7, 7-A, 8, 12,13 of

the Prevention of Corruption Act, 1988 (for short 'PCA') and Section 184, 185, 119/177, 3(1) 180, 5(1) 181, 199 (a) of the Motor Vehicles Act, registered with Yerwada Police Station of Pune city. Since all the applications of regular bail are related to one and the same crime, in order to avoid repetition of discussion and to facilitate the appreciation, the same are decided collectively.

2. In brief, the story reflected in the charge-sheet would reveal that on 19/05/2024 at about 2:30 a.m. informant Aquib Mulla lodged the FIR with Yerwada Police Station alleging that at the relevant time, he and his friends were returning home after celebration of a party at a Baller Hotel and when they came near landmark society of Kalyani nagar, Airport road, a Porsche car having no registration number plate, being driven in a very rash and negligent manner as well as under drunken condition by Vedant child in conflict with law (For short 'CCL') gave dash to the backside of the Bajaj Pulsor motorcycle bearing No. MH-14-CQ-3622 and thereby caused death of motorcyclist Anis Awadhiya and pillion rider Ashwini Koshta. Making such allegations, he lodged the FIR and according to which, C.R. No. 306/2024 was registered and its investigation was assigned to ACP Shri. Satish Gowekar and subsequently Shri. Ganesh Ingale. After completion of the investigation, charge-sheet has been filed which has been registered as 'Special case (ACB) No. 917/2024'. All the applicants came to be arrested on different dates as their complicity emerged in the crime. According to prosecution

story, applicant Shivani being mother of CCL conspired with co-applicant Vishal, who is her husband, to set CCL scot-free from the legal process and also to shield him from the offences, by offering illegal gratification to public servants i.e. co-applicants Dr. Shrihari Halnor to replace the blood sample of CCL with that of her and as per the intervention of co-applicant Dr. Ajay Taware, Dr. Halnor collected the blood sample of CCL and by forging the documents forwarded the sample for analysis. For performance of such an illegal activity co-applicant Dr. Halnor accepted illegal gratification of Rs. 3,00,000/- from applicant Shivani and her husband Vishal through co-applicants Ashpak Makandar and Amar Gaikwad. Dr. Halnor gave amount of Rs. 50,000/- to co-applicant Atul Ghatkambale for extending him help in such activity. Initially, all the applicants were placed in ACB custody and at present they are in Judicial custody.

3. Applicant **Shivani** has moved the present bail application mainly contending that she is totally innocent and she has been falsely implicated in the present case. She has not committed any offence as reflected in the charge-sheet. According to her, no role of any nature has been attributed to her with the original offence relating to the accident and its consequences. The only allegation against her is that in conspiracy with her husband Vishal she tried to shield CCL by extending the courtesy of giving her own blood sample in the place of CCL. Even if the allegations levelled against her are taken to be true, there is no necessity of extension of her further judicial custody. Only in order to satisfy the uproar on the social

media and public sentiments targeting the police functioning, she has been roped in the present crime. No due process of law was followed while arresting her. There is no prima facie material available on record to show her involvement in all the offences which have been levelled in the charge-sheet. Now, after completion of investigation, the charge-sheet has been filed and as such now nothing remains to be recovered or discovered on her pointing out. On these grounds and that of innocence of the applicant, it is prayed that application be allowed.

4. Applicant **Vishal** has moved the present bail application mainly contending that he is totally innocent and he has been falsely implicated in the present case. He has not committed any offence as reflected in the charge-sheet. According to him, no role of any nature has been attributed to him with the original offence relating to the accident and its consequences. The only allegation against him is that in conspiracy with his wife Shivani he tried to shield CCL by extending the courtesy of giving her blood sample in the place of CCL. Even if the allegations levelled against him are taken to be true, there is no necessity of extension of his further judicial custody. Only in order to satisfy the uproar on the social media and public sentiments targeting the police functioning, he has been roped in the present crime. No due process of law was followed while arresting him. There is no prima facie material available on record to show his involvement in all the offences which have been levelled in the charge-sheet. Now, after completion of investigation, the charge-sheet has been filed and

as such now nothing remains to be recovered or discovered on his pointing out. On these grounds and that of innocence of the applicant, it is prayed that application be allowed.

5. Applicant **Dr. Shrihari Halnor** has moved the present bail application mainly contending that he is totally innocent and he has been falsely implicated in the present case. He has not committed any offence as reflected in the charge-sheet. According to him, no role of any nature has been attributed to him with the original offence relating to the accident and its consequences. The only allegation against him is that in conspiracy with co-applicants Vishal and his wife Shivani he tried to shield CCL by extending the courtesy of replacing blood sample of Shivani in the place of CCL Vedant. Even if the allegations levelled against him are taken to be true, there is no necessity of extension of his further judicial custody. So far as the role attributed to him in the charge-sheet, there cannot be any application of Section 467 and Section 120-B of IPC. The nature of the evidence is in the form of electronic evidence as well as forensic analysis and therefore, there is no slightest possibility of tampering of the same by him. Only in order to satisfy the uproar on the social media and public sentiments targeting the police functioning, he has been roped in the present crime. No due process of law was followed while arresting him. There is no prima facie material available on record to show his involvement in all the offences which have been levelled in the charge-sheet. His mobile phone has already been seized by the Investigating Authority. Now, after

completion of investigation, the charge-sheet has been filed and as such now nothing remains to be recovered or discovered on his pointing out. He being public servant is not likely to abscond and is ready to abide by all the terms and conditions imposed by this court while granting bail. The allegations levelled against him, even taken to be true on its face value, would, at the most, attract corporal punishment upto 7 years. On these grounds and that of innocence of the applicant, it is prayed that application be allowed.

6. Applicant **Dr. Ajay Taware** has moved the present bail application mainly contending that he is totally innocent and he has been falsely implicated in the present case. He has not committed any offence as reflected in the charge-sheet. According to him, no role of any nature has been attributed to him with the original offence relating to the accident and its consequences. The allegations levelled against him are contradictory, paradoxical, illogical, inconceivable & absurd and therefore the prosecution story reflected in the charge sheet does not even require prima facie consideration. The only allegation against him is that in conspiracy with co-applicants Vishal and his wife Shivani as well as Dr. Shrihari Halnor, he tried to shield CCL by extending the courtesy of replacing blood sample of Shivani in the place of CCL Vedant. Even if the allegations levelled against him are taken to be true, there is no necessity of extension of his further judicial custody. So far as the role attributed to him in the charge-sheet, there cannot be any application of Section 467 and Section 120-B of IPC. The

nature of the evidence is in the form of electronic evidence as well as forensic analysis and therefore, there is no slightest possibility of tampering of the same by him. Only in order to satisfy the uproar on the social media and public sentiments targeting the police functioning, he has been roped in the present crime. No due process of law was followed while arresting him. There is no prima facie material available on record to show his involvement in all the offences which have been levelled in the charge-sheet. His mobile phone has already been seized by the Investigating Authority. Now, after completion of investigation, the charge-sheet has been filed and as such now nothing remains to be recovered or discovered on his pointing out. He being public servant is not likely to abscond and is ready to abide by all the terms and conditions imposed by this court while granting bail. The allegations levelled against him, even taken to be true on its face value, would, at the most, attract corporal punishment upto 7 years. On these grounds and that of innocence of the applicant, it is prayed that application be allowed.

7. Applicant **Ashpak Makandar** has moved the present bail application mainly contending that he is totally innocent and he has been falsely implicated in the present case. He is neither directly nor indirectly connected to the offences levelled in the charge-sheet. He has not committed any offence as reflected in the charge-sheet. According to him, the offences under the provisions of IPC and PC Act as well as M. V. Act are not attracted so far as the role attributed to him. There is no

prima facie material available on record to show his involvement in all the offences which have been levelled in the charge-sheet. Now, after completion of investigation, the charge-sheet has been filed and as such now nothing remains to be recovered or discovered on his pointing out. The trial in the present case may take its own course and his continuous detention till then is not at all required. He is ready to abide by all the terms and conditions imposed by this court while granting bail. On these grounds and that of innocence of the applicant, it is prayed that application be allowed.

8. Applicant **Amar Gaikwad** has moved the present bail application mainly contending that he has not committed any offence as reflected in the charge-sheet. According to him, the offences under the provisions of IPC and PC Act as well as M. V. Act are not attracted so far as the role attributed to him. There is neither recovery nor discovery of whatsoever nature has been effected at his instance. There is no prima facie material available on record to show his involvement in all the offences which have been levelled in the charge-sheet. Now, after completion of investigation, the charge-sheet has been filed. The trial in the present case may take its own course and his continuous detention till then is not at all required. He is ready to abide by all the terms and conditions imposed by this court while granting bail. He is suffering from acute obesity as well as diabetics and has been advised to undergo the test of peripheral colour doppler for lower limbs. On these grounds and that of innocence of the applicant, it is prayed that application be allowed.

9. The respondent Investigation Officer resisted the applications by filing e-reply to all the applications on different dates. It is specifically contended that the offences as alleged in the charge sheet have been committed by all the applicants in furtherance of their common intention as well as with criminal conspiracy hatched with one another. It is revealed in the investigation that Vedant i.e. CCL committed offence of culpable homicide as contemplated under Section 304 of IPC by recklessly driving the Porsche car under the acute drunken state and thereby crushed the lives of two occupants on the motorcycle. In order to destroy the evidence of such a drunkenness, applicants Vishal, Shivani, Dr. Halnor, Dr. Ajay Taware conspired to replace the blood sample of Vedant with that of the blood sample of applicant Shivani and succeeded in actually replacing the same by accepting illegal gratification / bribe amount of Rs. 3,00,000/- by applicants Dr. Shrihari Halnor through Ashpak Makankar and Amar Gaikwad. In order to achieve that target, the relevant record of the Sasoon Hospital was either tampered with or due process was not followed while taking down necessary entries in the concerned documents / registers. The incriminating and material information has been retrieved from the mobile phones, which came to be seized from the possession of the applicants. The CDR developed in the course of investigation established that all the applicants were in frequent contact with one another, even at the odd hours of night. As regards complicity of all the applicants in the commission of the alleged offences, there is

prima facie material in the nature of technical analysis, electronic evidence and direct evidence. Applicants Vishal and Shivani are influential, financially strong persons and therefore they were found to be exerting pressure on the material witnesses of the present case, so that such witnesses should desist themselves from disclosing the truth to the Investigating Authority. Similarly, applicant Dr. Halnor and applicant Dr. Taware, being the doctors in the Sasoon Hospital, have not fully co-operated in the investigation and in the event of their release on bail, tampering of the evidence at their hands cannot be ruled out. So far as applicants Amar and Ashpak are concerned, their presence at the specified place in Sasoon Hospital, Juvenile Justice Board at Yerwada, Pune and their suspicious activities recorded in the CCTV camera, demonstrate their active involvement in supporting applicants Dr. Halnor and Dr. Taware in replacing the blood sample of Vedant, CCL, with that of applicant Shivani and also handing over bribe amount for such an illegal activity is clearly revealed in the investigation. They have also performed specified roles in criminal conspiracy with prime applicants i.e. Vishal, Shivani, Dr. Halnor and Dr. Taware to replace the blood sample, with sole object of shielding CCL Vedant from the punishment likely to be inflicted for having driven the said Porsche Car under drunken condition and claiming two lives of innocent bikers. Since the provisions of Section 467 and 120-B of IPC get attracted to their role played in the commission of alleged offences, they cannot be released on bail. So far as the additional medical ground of applicant Amar for having his release on bail is concerned, it is

contended that he is not suffering from any serious disease requiring any long term hospitalization. He can be medically treated either at Yerwada Central Jail or Sasoon Hospital at Pune. There is also possibility that in the event of grant of bail, applicants may abscond and thereby the trial may get delayed. Lastly, it is alleged that in the event of grant of bail to these applicants, the issue of 'law and order' may arise in the Pune city. On these grounds, the rejection of the applications has been prayed for.

10. Extensively heard Ld. Adv. Shri. Sudhir Shah for the applicant Shivani and Dr. Taware, Ld. Senior Adv. Shri. Harshad Nimbalkar for applicant Vishal, Ld. Adv. Shri. Rishikesh Ganu for Dr. Halnor, Ld. Adv. Shri. Prasad Kulkarni for Ashpak Makandar and Amar Gaikwad as well as Ld. Special P. P. Shri. Shishir Hiray for the State.

11. As regards the role attributed to applicant Shivani, learned Adv. Shri. Sudhir Shah vehemently submitted that she was arrested on 01/06/2024 and was placed in police custody remand for about 13 days and thereafter for almost 1 ½ month she is in judicial custody. According to him, the only role attributed to her is that she replaced her blood at the place of blood of her son Vedant, CCL with an intention to shield him from the legal consequences of his driving the Porsche Car in a rash & negligent manner and in an extreme drunken condition. According to him, there is no evidence on record to show that she induced somebody for commission of any offence. So far as

the role attributed to her is concerned, the provisions contained in Sections 304, 466, 467, 468 and 471 of the IPC are not at all applicable. At the most, the provisions contained in Section 201, 213 and 214 can be made applicable, which does not attract severe punishment. He further submitted that the offences which are alleged against her are not the main offences, but accessory after the occurrence of the main offences and therefore the provisions of IPC containing severe punishment are not applicable. He further submitted that except replacement of blood, there is no allegation against her and therefore there cannot be tampering of the evidence at her hands. He submitted that applicant Shivani being lady, her bail application is required to be dealt with lenient approach as contemplated under Section 437 of Cr. P. C. He submitted that now charge sheet is filed and therefore extension of her judicial custody till the conclusion of the trial which may take sufficient long time is not at all required in the present case. He further submitted that as the investigation agency was not sure about application of Section 467 of IPC to the present crime, the charge-sheet was filed before 60 days instead of 90 days which are permissible under law. This aspect shows that Section 467 of IPC has no application to the present case. Lastly he submitted that 'Bail is the rule and Jail is the exception' is the settled position of law. As such, he requested to release applicant Shivani on bail.

12. So far as the role attributed to applicant Dr. Ajay Taware is concerned, learned Adv. Shri. Sudhir Shah

vehemently submitted that even if the role attributed to him is taken to be true on its face value, the provisions contained in Section 466, 467, 468 and 471 of IPC cannot have any application. At the most, the offences contemplated under Section 201, 213 and 214 of IPC may get attracted which do not describe any severe punishment. There is no allegation against him either of demanding or accepting any bribe. Similarly, between 02/05/2024 to 20/05/2024, he was on long leave and as such not physically present in the Sasoon Hospital and he has not taken any active part in the activities which took place in the hospital. Therefore, the provisions of P.C. Act also cannot have any application. At the most, his CDR is on record, but his alleged actual talks are not on record and therefore there is no force in the allegations against him that he participated in the criminal conspiracy as alleged in the charge-sheet. As on today, charge-sheet is filed and the applicant Dr. Taware being a reputed doctor of Sasoon Hospital is neither an influential person nor likely to abscond and therefore his continuous incarceration in the jail custody is not at all required. He further submitted that as the investigation agency was not sure about application of Section 467 of IPC to the present crime, the charge-sheet was filed before 60 days instead of 90 days which are permissible under law. This aspect shows that Section 467 of IPC has no application to the present case. Lastly, he submitted that 'Bail is the rule and Jail is the exception' is the settled position of law. As such, he requested to release him on bail by putting any stringent condition, as the court may deem fit.

13. Ld. Senior Adv. Shri. Harshad Nimbalkar for applicant Vishal vehemently submitted that the original FIR was registered against Vedant, CCL, son of present applicant Vishal for having committed offences under Section 304-A, 337, 338 & 427 of IPC and the offences under the provisions of Motor Vehicles Act. Subsequently, Section 304 came to be applied. According to him, present applicant Vishal came to be arrested in a successive crime only in order to please the media, public, higher authorities. He was placed in sufficient police custody of 12 days and during that period his mobile phone, passport, car, DVR, etc. have been seized. According to him, the provisions contained in Section 304, 304-A, 279, 466, 467, 468 and 471 of IPC as well as the PC Act are not at all applicable to the role attributed to him. The provisions contained only under Section 201, 213 and 214 of IPC of screening the CCL Vedant, at the most, would get attracted, for which law does not prescribe any harsh punishment. The allegation against him that he instigated his wife Shivani to give her blood sample in the place of blood sample of CCL Vedant is covered only under Section 201, 213 and 214 of IPC. So far as the provisions of PC Act are concerned, he has personally not handed over any cash amount to anybody and therefore the same are also inapplicable to him. As regards the allegation of criminal conspiracy is concerned, he vehemently submitted that since it is a case of vehicular accident, there cannot be any criminal conspiracy to commit the accident. As regards the issue of blood sample is concerned, it is submitted that simply because second sample of blood was also

taken it cannot be said that it will wipe out all the earlier evidence. The said act of replacing the blood sample, at the most, can be treated as an attempt to screen the offender which is again accessory to the main offence and therefore the same cannot be treated as an offence at all. Since the role attributed to him is connected to the accessory of the incident of accident, all other provisions either under IPC or PC Act do not get attracted. As regards the allegation of abetment is concerned, it is submitted that the act alleged to have been committed by applicant Vishal is allegedly committed after the offence of occurrence of accident and therefore it would not amount to any offence at all. He cannot be said to have given any instigation to Vedant, CCL to drive the vehicle in the manner reflected in the charge-sheet. At the most, the allegation against him of asking his wife Shivani to give her blood sample in the place of his son would be accessory to the main offence and therefore also it is not punishable. He further submitted that before arresting applicant Vishal, notice as contemplated under Section 41-A of Cr. P. C. was not served upon him and therefore benefit of the same needs to be extended in his favour. There is no prima facie material available against him. After completion of investigation, the charge-sheet has been filed and as such there is no necessity of extension of his judicial custody till the conclusion of the trial. He has roots and property as well as business in the city of Pune and therefore there is no possibility of his abscondance. So far as the issue of tampering of the evidence is concerned, he has no access to the witnesses in the Sasoon Hospital and the electronic evidence which already

came to be seized from the Sasoon Hospital and therefore there is no chance at all for him to tamper with the said evidence. There are registration of other crimes against him, but they are related with his business as a builder and most of them have been registered after registration of the present crime. Applicant Vishal is ready to abide by all the terms and conditions of the bail. He further submitted that as the investigation agency was not sure about application of Section 467 of IPC to the present crime, the charge-sheet was filed before 60 days instead of 90 days which are permissible under law. This aspect shows that Section 467 of IPC has no application to the present case. Lastly, he submitted that 'Bail is the rule and Jail is the exception' is the settled position of law. As such, he requested to release applicant Vishal on bail.

14. Learned Adv. Shri. Rishikesh Ganu for applicant Dr. Shrihari Halnor vehemently submitted that applicant Dr. Halnor came to be arrested on 27/05/2024 and was remanded to police custody till 05/06/2024. The said custody was sufficient for carrying out the investigation of the case so far as the role attributed to him in the charge-sheet. According to him, admittedly his name does not figure out in the FIR. There is no allegation against him as regards commission of any vehicular accident by him. The only allegation against him is that of taking blood sample and acceptance of bribe. Both these allegations being accessory to the main offence of commission of accident, cannot be clubbed and therefore neither Section 109 nor Section 120-B of IPC has any application. According to

him, considering the role attributed to him, there can be application of only Sections 201, 213 and 214 of IPC which does not prescribe any severe punishment. As regards the replacement of blood sample, he vehemently submitted that the C. A. reports or any documentation in relation with such sampling or replacement of sample cannot attract the provision contained either in Section 30 or Section 467 of IPC and therefore there cannot be application of these sections also to the role attributed to Dr. Halnor. According to him, during the course of investigation, relevant registers, mobile phones, DVR and other ancillary evidence has already been seized and now they are in the custody of Investigating Authority and therefore the same cannot be tampered now by the applicant. He further submitted that statements of majority of witnesses have also been recorded under Section 164 of Cr. P. C. by the Ld. Judicial Magistrate and therefore also there is no scope for applicant Dr. Halnor to tamper with the said evidence. Similar is the case of forensic evidence, which cannot be tampered. Additionally he submitted that since at present he being under suspension, even cannot enter the premises of Sasoon Hospital and therefore also he cannot tamper with the evidence. At the most, the provisions of PC Act, as well as the provisions contained in Section 466 of IPC can be made applicable to the role attributed to the applicant which prescribes maximum punishment of 7 years and therefore he cannot be detained behind the bars, till conclusion of the trial. He further submitted that applicant is a government servant serving in Sasoon Hospital and has permanent residence as well as family and therefore there is no

possibility of his abscondance. He further submitted that as the investigation agency was not sure about application of Section 467 of IPC to the present crime, the charge-sheet was filed before 60 days instead of 90 days which are permissible under law. This aspect shows that Section 467 of IPC has no application to the present case. Lastly, he submitted that 'Bail is the rule and Jail is the exception' is the settled position of law. As such, he requested to release the applicant on bail by putting any stringent condition.

15. Ld. Adv. Shri. Prasad Kulkarni for applicants Amar and Ashpak vehemently submitted that both the applicants are innocent and have not committed any offence as reflected in the charge-sheet. According to him, the only allegation against them is that they tried to manipulate the facts and hatched the conspiracy to change the blood sample. As such, both of them have no nexus with the offence under Section 304 of IPC allegedly committed by CCL Vedant. Their alleged role starts after completion of the main offence under Section 304 of IPC and therefore, they cannot be said to have committed offence of abetment. So far as the provisions of PC Act are concerned, the maximum punishment provided under the law is 7 years and minimum is 3 years. There is neither recovery nor discovery to be effected from them and as such their further detention in the prison is absolutely unwarranted. Having seen the role attributed to them, there is absolutely no possibility of tampering of the evidence by either of them. As regards applicant Amar, he further submitted that he is suffering from

obesity & diabetics and as such requires regular medical attention. Both the applicants cannot be stated to be a threat to the society. They are not the influential persons. He further submitted that as the investigation agency was not sure about application of Section 467 of IPC to the present crime, the charge-sheet was filed before 60 days instead of 90 days which are permissible under law. This aspect shows that Section 467 of IPC has no application to the present case. Lastly, he submitted that 'Bail is the rule and Jail is the exception' is the settled position of law. As such, he requested to release both of them on bail by putting any stringent condition.

16. All the learned advocates for all the applicants have relied upon the same set of case laws, which are reproduced hereinbelow -

- a) **Menino Lopes Vs. State of Goa** reported in **1994 ALLMR ONLINE 1417**
- b) **Khemlo Sakharam Sawant Vs. State** reported in **2002 (1) Bom. C. R. 689**
- c) **The State of Rajasthan, Jaipur Vs. Balchand** reported in **AIR 1977 Supreme Court 2447**
- d) **Manish Sisodia Vs. Directorate of Enforcement in Criminal Appeal No. of 2024 arising out of SLP (Cri) No. 8781/2024**
- e) **Jalaluddin Khan Vs. Union of India in Criminal Appeal No. 3173/2024 (Hon'ble Supreme Court of India)**
- f) **Prabhakar Tewari Vs. State of U. P.** reported in **[2020] 1 Crimes (SC) 143 [2020] 0 Supreme (SC) 75 (Hon'ble Supreme Court of India)**

- g) **Santosh Kumar Sethi Vs. State of Odisha** reported in 2015 0 Supreme (Ori) 353
- h) **Appaso @ Kumar Kallappa Kumasage Vs. The State of Maharashtra** in Bail Application No. 2178/2018, dt. 24/09/2018 (Hon'ble High Court of Bombay)
- i) **Kailas Yashwant Kolekar Vs. State of Maharashtra** in Criminal Bail Application No. 1440/2013 dt. 25/10/2013 (Hon'ble High Court of Bombay)
- j) **Javed Gulam Nabi Shaikh Vs. State of Maharashtra and another**, Criminal Appeal No. 2787/2024 arising out of SLP (cri) No. 3809/2024, decided on 03/07/2024 (Hon'ble Supreme Court of India)
- k) **Ajikhhan Mohd. Khan Pathan Vs. The State of Maharashtra** reported in 2024 ALL MR (Cri) 898 (Hon'ble High Court of Bombay)
- l) **Pradeep Shivaji Shinare Vs. The State of Maharashtra** reported in 2013 ALL MR (Cri) 1317
- m) **Masoom Birham Tadvi Vs. State of Maharashtra** reported in [2004 (2) B. Cr. C. 556]
- n) **Lakhya alias Nikhil Prakash Kshirsagar Vs. The State of Maharashtra** reported in [2015 (1) B Cr. C 450]
- o) **Hazari Lal Vs. Emperor** reported in AIR 1921 Patna 286

The relevance of these case laws is being discussed at the appropriate place in the latter part of this order.

17. Per contra, Ld. Spl. P. P. Shri. Shishir Hiray for the State invited attention of this court to each & every material piece of evidence in the charge-sheet and vehemently submitted that there is strong prima facie material available on record

against all the applicants demonstrating their complicity in the alleged criminal activity. It was his fervent submission that the role attributed to each of the applicants cannot be segregated and looked into in isolation, as the alleged offences, except offence under Section 304 of the IPC have been committed in furtherance of their common intention and also in conspiracy with one another. He submitted that within the short time of occurrence of the accident, the applicants took the entire system in the Sasoon Hospital in their hands to shield CCL Vedant from the clutches of law by replacing his blood sample with the help of his mother Shivani and to achieve that target each of them played a specified role as reflected in the charge-sheet and actually they succeeded in replacing the sample of applicant Shivani in the place of CCL Vedant by bribing applicants Dr. Shrihari Halnor and Dr. Ajay Taware. As a consequence thereof, Dr. Shrihari Halnor replaced the blood sample and accordingly made forged entries in the concerned register. Thus, the documentary evidence that could be brought before the court in future in the form of C. A. certificate was tampered with and was also sabotaged to mislead the court. According to him, there is sanctity attached to such C. A. reports and therefore such reports directly go into evidence without any formal proof or evidence of any related witness of the office of Chemical Analyzer. Their ultimate intention in changing of the blood sample was to show that the offence under Section 304- A and not under Section 304 of IPC is committed. By doing so, they have forged the valuable security as contemplated under Section 30 of IPC and thereby committed offence under Section

467 of IPC which prescribes punishment of life imprisonment. By such an act of all the applicants of falsifying the C.A. reports, to be placed on record in future, they have destroyed the legal right which had accrued in favour of the investigation as well as prosecution agency. They were so quick in their action that they succeeded in their criminal conspiracy before the blood on the road of the two victims on the motorcycle could get dried. By doing so, they have played fraud with the judicial system which is very serious aspect of the case, irrespective of the punishment provided for the offence. They could achieve their such target only because of the support of very influential hands behind them. Thus, the tampering has been successfully done before the actual investigation of the crime could start. He further submitted that the various material pieces of evidence clearly demonstrate that when the accident took place, CCL Vedant was heavily drunken and the Porsche car was being driven by him at an extraordinary high speed and therefore, the air bags of the said car opened and got locked at the speed of 110 km./hour, as a result of which victim Ashwini sustained almost 26 injuries. During the course of argument, he also invited attention of this court to all the C. A. reports which are based upon the blood samples collected at Sasoon Hospital as well as Aundh Hospital and vehemently submitted that the tampering with the original blood samples has been successfully detected. He further submitted that the DVR of the Sasoon Hospital as well as the CDR of the seized mobile phones clearly demonstrate the establishment of contacts amongst all the applicants and their active participation in achieving the target

hatched by them through the criminal conspiracy. He further submitted that there is clear material on record to show that bribe was offered and was also accepted by both the doctors, who followed the unusual procedure of making entries in the concerned registers. According to him, it is the right of the investigation agency to file charge-sheet either before 60 or 90 days, as the case may be and simply because charge-sheet is filed before the completion of 60 days of the arrest of the applicants, it cannot be inferred that the same was done as prosecuting agency was not sure about applicability of Section 467 of the IPC to the present crime. He further submitted that simply because charge-sheet is filed the applicants do not automatically get right to have their release on bail. The merits of the case are certainly required to be taken into consideration while deciding the bail applications which is purely a discretionary relief and while doing so the interest of the entire society as against the interest of a particular person is required to be protected by the court. On the backdrop of these arguments, he requested the court to reject all the bail applications.

18. In support of his such submissions, he has also relied upon following case laws -

- a) **Daniel Hailey Walcott and another Vs. State** reported in **AIR 1968 MAD 349**
- b) **Naveen Singh Vs. The State of Uttar Pradesh and another, Criminal Appeal No. 320/2021 arising out of Special Leave Petition (Cri) No. 2545/2020 (Supreme Court of India)**

- c) **State of U. P. through CBI Vs. Amarmani Tripathi** reported in **(2005) 8 Supreme Court Cases 21**
- d) **Ishwarlal Girdharilal Parekh Vs. State of Maharashtra and others** reported in **(1968) 70 ITR 95 (Supreme Court of India)**

The relevance of these case laws is being discussed at the appropriate place in the latter part of this order.

19. An opportunity of hearing was also extended to the Investigating Officer Shri. Ganesh Ingale, whose argument was nothing but more or less replica of the argument of Ld. Spl. P. P. Shri. Shishir Hiray.

20. I have carefully gone through the submissions of both the sides, the record, as well as the charge-sheet and the case laws relied upon by both the sides. Since during the pendency of all these applications, the charge-sheet came to be filed, there is ample material available before this court for assessment and appreciation. On careful reading of the charge-sheet, it becomes clear that CCL Vedant under extreme drunken condition, recklessly drove the Porsche car and dashed the same against a motorcycle and thereby causing death of the occupants and accordingly crime under Section 304 of IPC coupled with other Sections of IPC and M.V. Act came to be registered against him. Admittedly, applicants Vishal and Shivani are the biological parents of CCL Vedant. After carefully analyzing the entire material placed in the form of charge-sheet, it becomes crystal clear that there is substance in the allegation that applicants Vishal and Shivani conspired with all the

remaining applicants i.e. Dr. Halnor, Dr. Taware, Ashpak Makandar and Amar Gaikwad to replace the blood sample of applicant Shivani in the place of CCL Vedant, by adopting the illegal mode of offering bribe to both the doctors and for that purpose applicant Ashpak and Amar extended their active help. It becomes crystal clear from the material placed in the charge-sheet that in the odd hours of midnight, all of them gathered in the premises of the Sasoon Hospital and performed their particular incriminating role to achieve the target of replacing the blood sample of Shivani in the place of blood of CCL Vedant. Their such presence and active participation in the role assigned to them in the commission of crime has been captured not only in CCTV footage, but visible also in the statements of the witnesses recorded by the Investigating Officer as well as the learned J. M. F. C. Similarly, the CDR placed on record also makes it amply clear that at such an odd hours of night, they were frequently in contact with one another with the help of their mobile phones which have already been seized by following due procedure of law. Absolutely, there was no reason for them to have such conversation and remain present in the premises of Sasoon Hospital as well as in the premises of Juvenile Justice Board. The C.A. reports and the ancillary evidence reflected in the charge sheet makes it amply clear that as per the criminal conspiracy hatched by them and pre-meeting of minds they all succeeded in achieving their target of replacing the blood sample of applicant Shivani in the place of CCL Vedant. This particular aspect of the evidence prima facie demonstrates that by adopting illegal mode, they all wanted to

shield CCL Vedant from the charges to be levelled against him in future regarding driving the Porsche car recklessly and under the extreme influence of alcohol. Since the specific role played by each of the applicants has been played and accomplished with pre-meditation and in criminal conspiracy with one another, the role of each of them cannot be segregated and assessed in isolation as rightly argued by Ld. Spl. P. P. Shri .Shishir Hiray. Had there been no pre-meeting of minds and no hatching of criminal conspiracy as disclosed above, then certainly the role of each of them could be segregated and assessed in isolation. However, as observed above there is ample evidence on record regarding such pre-meeting of minds and hatching of criminal conspiracy. Therefore the submissions of all the learned advocates for all the applicants that the role of each applicant needs to be segregated and assessed accordingly only by adhering to Section 201, 213 and Section 214 of the IPC, cannot be accepted at all. No doubt, as pointed out by all the learned advocates for all the applicants that, they have no role in the incident of accident caused by CCL Vedant. In this respect, only applicants Vishal and Shivani can be blamed for having allowed their son i.e. CCL Vedant to drive the Porsche car though he was minor at the relevant time of accident. So far as this activity on the part of applicants Vishal and Shivani of allowing CCL Vedant to drive the vehicle, though he was minor, cannot attract the provision of Section 304 of IPC against them. So, to that extent, the argument of all the learned advocates for applicants can be accepted.

21. As observed above, there is ample material on record to demonstrate that all the applicants with their pre-meditative minds and in criminal conspiracy with one another, took active part in shielding CCL Vedant from prospective punishment by replacing the blood samples and to create false and forged record of Sasoon Hospital, by abetting, instigating, offering bribe of huge amount to both the doctors. The aspect of replacement of blood in the manner disclosed above and the preparation of fabricated official record needs to be appreciated to know whether Section 467 of IPC gets attracted or not. In this respect the submissions of both the sides are totally contradictory to each other, as reflected in the above relevant paras of this order. In order to appreciate this aspect we have to consider the very scope of Section 29, 30 and Section 467 of IPC. For ready reference both the Sections are reproduced hereinunder -

S. 29 “Document” – The word “document’ denotes any matter expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, intended to be used, or which may be used, as evidence of that matter.

Explanation 1 – It is immaterial by what means or upon what substance the letters, figures or marks are formed, or whether the evidence is intended for, or may be used in, a Court of Justice, or not.

S. 30 “Valuable Security” – The words “valuable security” denote a document which is , or purports to be, a document whereby any legal right is created, extended, transferred,

restricted, extinguished or released, or whereby any person acknowledges that he lies under legal liability, or has not a certain legal right.

S. 467 Whoever forges a document which purports to be a valuable security or a will, or an authority to adopt a son, or which purports to give authority to any person to make or transfer any valuable security, or to receive the principal, interest or dividends thereon, or to receive or deliver any money, movable property, or valuable security, or any document purporting to be an acquittance or receipt acknowledging the payment of money, or an acquittance or receipt for the delivery of any movable property or valuable security, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

In view of the scope of Section 29 of IPC ‘document’ means a matter expressed by means of letters, figures or marks intended to be used as an evidence in the matter.

In view of the scope of Section 30 of the IPC ‘Valuable Security’ means any document whereby a legal right is created or extinguished. In this respect, Ld. Spl. P. P. Shri .Shishir Hiray has vehemently submitted that the replacement of the blood sample was given effect in the official record of the Sasoon Hospital by application of forgery and thereby the legal right accrued in favour of the Investigating agency / prosecution to have genuine & transparent reports of the Chemical Analyzer, which has got great sanctity under the law, as it can be directly

placed in evidence without formal proof thereof, has been extinguished and therefore Section 30 of IPC clearly gets attracted. Section 467 of the IPC provides punishment of imprisonment for life , if there is forgery of any valuable security.

22. Learned Spl. P. P. Shri. Shishir Hiray in order to buttress his argument that the act of tampering of changing of the blood sample and consequently making forged entries in the government registers attract the provision contained under Section 30 and Section 467 of IPC heavily relied upon the case law in the case of **Ishwarlal Girdharilal Parekh Vs. State of Maharashtra and others** reported in (1968) 70 ITR 95 (Supreme Court of India) wherein it is observed that -

the cheating, employed by the accused, resulted in inducing the Income Tax Officer to make a wrong assessment order, it would amount to inducing the Income Tax Officer, to make a “Valuable Security”.

23. The observations of the Hon’ble Apex Court regarding the scope of the definition or terminology of ‘valuable security’ are perfectly applicable to the case at our hand as all the applicants in criminal conspiracy with one another not only changed the blood samples but also forged the Government record maintained in the Sasoon Hospital only with an intention that the C. A. certificates which may come on record in future for assessing condition of intoxication of CCL Vedant, should mislead the court to believe that the CCL Vedant was not at all

under extreme state of intoxication.

24. On the same point, in order to clarify the meaning of the terminology 'legal right' appearing in Section 467 of IPC, learned Spl. P. P. Shri. Shishir Hiray rightly relied upon the case law in the case of **Daniel Hailey Walcott and another Vs. State** reported in **AIR 1968 MAD 349**. In paragraph No. 21 and 41 of the said case law following observations have been made -

(21) From the statements made by the jurists noted above, the following principles can be deduced broadly to understand what a 'legal right' is (1) Legal right in its strict sense is one which is an assertable claim, enforceable before Courts and administrative agencies; (2) In its wider sense, a legal right has to be understood as any advantage or benefit conferred upon a person by a rule of law; (3) There are legal rights which are not enforceable, though recognised by the law; (4) There are rights recognised by the International Court, granted by international law; but not enforceable; and (5) A legal right is a capacity of asserting a secured interest rather than a claim that could be asserted in the Courts.

(41) The passport Ex. P-40 in this case creates legal right as mentioned under S. 30 of the Indian Penal Code, and it is, therefore, a valuable security. The conviction of the appellant under this charge by the lower Court is, therefore, correct is confirmed.

25. It has been observed by the Hon'ble Apex Court that "legal right in its strict sense is one which is an assertable claim, enforceable before Courts." These observations of the Hon'ble Apex Court are perfectly applicable as on account of efforts taken by the Investigating Officer to take the blood samples of CCL Vedant was made with an intention to bring on record the correct status of the blood of CCL Vedant and thereby the appropriate C. A. report demonstrating the correct state of intoxication could have been brought on record. Since on account of such exercise a legal right had arisen in favour of the Investigation agency, which could have been enforceable before this court, has been forged. Therefore, on the basis of the present case law, which can have complete application to the facts and circumstances of the present case, it can be inferred that there was forgery of valuable security. As such, the case law would have application to the case at our hand. Accordingly, the submission of Ld. Spl. P. P. Shri. Shishir Hiray regarding correct application of Section 30 and Section 467 of the IPC needs to be upheld.

26. During the course of argument, all the learned advocates relied upon several case laws, the applicability of the same to the case at our hand is now being discussed hereinbelow-

27. As regards grant of bail, it was vehemently submitted by all the learned advocates that 'the basic rule is bail

and not the jail'. To support the said submission, reliance has been placed on the case law in the case of **The State of Rajasthan, Jaipur Vs. Balchand** reported in AIR 1977 Supreme Court 2447. I have carefully gone through the said case law. It is not laid down therein that irrespective of the nature of crime and ignoring everything which is incriminating against any accused, court must grant bail. The minute reading of the case law would demonstrate the ratio of the case as, '*the basic rule may perhaps be tersely put as bail, not jail, except where there are circumstances suggestive of fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like, by the petitioner who seeks enlargement on bail from the court.*'

In view of the observations of the Hon'ble Apex court, the bail can be rejected, if there are exceptions which are laid down therein.

28. So far as the case law in the case of **Jalaluddin Khan Vs. Union of India in Criminal Appeal No. 3173/2024 (Hon'ble Supreme Court of India)** is concerned, it is laid down therein that if there are no reasonable grounds for believing that the accusation against the Appellant of commission of offences punishable under the UAPA is prima facie true, then bail can be granted to the accused against whom such accusation is levelled.

In the case cited supra bail was granted as the provisions under UAPA were found to be not attracting. In the case of our hand, there are no allegations pertaining to UAPA and therefore

the case law being based upon different set of circumstances and legal aspects, would have no application.

29. So far as the case law in the case of **Menino Lopes Vs. State of Goa** reported in **1994 ALLMR ONLINE 1417**, is concerned, it is observed therein that ‘it is common knowledge that in every bail case the police allege that there is a danger of tampering with the witnesses.’ I have carefully considered the case law and the case at our hand. In that case, there was simply allegation having danger of tampering with witnesses by the accused and there was no foundation for such an allegation. In the case at our hand, the illegal activities of all the applicants gave rise to tampering and it was also nurtured to the fullest extent. Therefore, the court has to independently assess on the basis of available material on record as to whether there is a substance in such an allegation made by police. Having so independently assessed, this court found that there is sure chance of tampering with material part of the evidence to be brought on record during trial, at the hands of all the applicants.

30. On the same point of tampering, reliance was also placed on the case law in the case of **Prabhakar Tewari Vs. State of U. P.** reported in **[2020] 1 Crimes (SC) 143** wherein it is laid down by the Hon’ble Apex Court that simply because the alleged offences are grave and serious in nature and there is criminal antecedents to the discredit of the accused applicant, that itself is not the basis for refusal of his prayer of bail.

I have carefully gone through the said case law and record. In the case at our hand as discussed at various places in this order that the applicants have played mischief with the Judicial system, by tampering with the blood samples and thereby by committing forgery of valuable security, on the strength of bribe amount, which is punishable with imprisonment for life. On this aspect of tampering, the said case law can be distinguished.

31. So far as the case law in the case of **Manish Sisodia Vs. Directorate of Enforcement in Criminal Appeal No. of 2024 arising out of SLP (Cri) No. 8781/2024**, is concerned, the same is based upon totally different set of circumstances and there are several distinguishable factors. In that case, the allegation was pertaining to commission of offences under Section 420, 201 and 120 of IPC coupled with Section 7, 7A, 8 & 12 of PC Act and Section 3 of Prevention of Money Laundering Act, 2002 (for short 'PM L A') for which maximum punishment of 7 years is provided and not imprisonment for life or death. In that case, the charge-sheet was containing documents over lakhs of pages, and the total number of witnesses were 493. Apart from this, though applicant Manish was arrested on 26/02/2023, there was no framing of charge till August 2024. Having regards to all these aspects and also having seen that the trial in that case may not get concluded in near future, the Hon'ble Apex Court was pleased to grant bail to applicant Manish. The parameters on which bail was granted to applicant Manish are not at all matching with the case at our

hand and therefore the same would have no application to the case at our hand.

32. So far as the case laws in the cases of **Appaso @ Kumar Kallappa Kumasage Vs. The State of Maharashtra in Bail Application No. 2178/2018, dt. 24/09/2018 (Hon'ble High Court of Bombay)** and **Santosh Kumar Sethi Vs. State of Odisha** reported in **2015 0 Supreme (Ori) 353**, are concerned in those cases there was sole allegation of commission of crime under Section 201 of IPC by the applicants therein for which maximum punishment provided is 3 years and therefore the Hon'ble High Court and Hon'ble Apex Court directed to enlarge them on bail. In the case at our hand as discussed above, the offence under Section 467 of the IPC attracting punishment for imprisonment for life has prima facie been committed and therefore the said case law cannot have any application to the case at our hand.

33. So far as the case law in the case of **Kailas Yashwant Kolekar Vs. State of Maharashtra in Criminal Bail Application No. 1440/2013 dt. 25/10/2013 (Hon'ble High Court of Bombay)**, is concerned the bail was granted to applicant Kailas as the case was purely based on circumstantial evidence and except the call details, there was no prima facie material available against applicant Kailas. In the case at our hand, there is strong prima facie material available on record and therefore the case law cited supra cannot have application to the case at our hand.

34. During the course of argument, it was vehemently submitted by all the learned advocates that the main offence in the present matter is under Section 304 of the IPC which is levelled against CCL Vedant and the allegations reflecting in the charge sheet against all the applicants are an accessory to the main offence which are not punishable under the Indian Law. To buttress this submission reliance has been placed on the case law in the case of **Hazari Lal Vs. Emperor** reported in **AIR 1921 Patna 286**, it is observed therein that '*An act done after an offence is complete which might help the offender does not amount to abetment. An accessory after the fact is not punishable under the Indian law.*'

35. I have carefully gone through the submission, record and the case law. At the first place, it needs to be mentioned here that the offence under Section 304 of the IPC was made applicable against CCL Vedant. The offences which have been levelled against all the applicants in the case at our hand are not accessory to the main offence, but they are intricately connected with the main offence under Section 304 of the IPC. In other words, the offences levelled against the present applicants are not accessory to the main offence and therefore the said case law cannot have application to the case at our hand.

36. So far as the case law in the case of **Javed Gulam Nabi Shaikh Vs. State of Maharashtra and another, Criminal**

Appeal No. 2787/2024 arising out of SLP (cri) No. 3809/2024, decided on 03/07/2024 (Hon'ble Supreme Court of India), is concerned the offences levelled against applicant Javed was under Sections 489-B, 489-C, 120-B read with S. 34 of the IPC, but there was no commencement of trial and the applicant Javed was in custody for almost 4 years, therefore, it was held that the right to have speedy trial enshrined under Article 21 of the Constitution was violated and therefore applicant Javed was directed to be released on bail. In the case at our hand, the position is otherwise. The applicants in the case at our hand have been arrested in June 2024 and charge-sheet has been filed in this court on 30/07/2024. The trial in the present case can be started, if legal impediments are not created in the smooth progress of the case. These being the distinctive aspects, the case law cited supra cannot be made applicable to the case at our hand.

37. During the course of argument, all the learned advocates vehemently submitted that the recreation of 'scene panchanamas' which are tendered on record are not admissible pieces of evidence and to buttress the said submission reliance has been placed on the case of **Ajikhhan Mohd. Khan Pathan Vs. The State of Maharashtra** reported in **2024 ALL MR (Cri) 898 (Hon'ble High Court of Bombay)**, wherein it is observed that *any accused after his arrest cannot be asked to demonstrate as to how he has committed the offence. Therefore, the basic nature of said panchanama itself is inadmissible in nature.*

This case law has been rightly relied upon the

learned advocates for all the applicants. In the charge-sheet at our hand there are several such recreation panchanamas which can be ignored in view of the law laid down by Hon'ble Bombay High Court in the case cited supra. However, even if such recreation panchanamas are totally ignored, at this stage, still there is sufficient prima facie material of incriminating nature against the all the applicants available on record and therefore the other such evidence can certainly be looked into by the court.

38. So far as the case law in the case of **Pradeep Shivaji Shinare Vs. The State of Maharashtra** reported in **2013 ALL MR (Cri) 1317**, is concerned the bail was granted to the applicant Pradeep as he had not used the weapon of sword and iron rod as was used by his associates Bharat, Tanaji and Santosh and the trial in that case was not likely to commence and conclude soon. In the case at our hand, the position is otherwise. The role attributed to all the applicants is that of hatching criminal conspiracy and pre-meeting of minds to commit the charged offences. Similarly, as observed above, the trial in the present case can be started soon, if there is no creation of any legal impediment in the smooth process of trial. These being the distinctive features, the case law cited supra cannot have any application to the case at our hand.

39. So far as the case law in the case of **Masoom Birham Tadvi Vs. State of Maharashtra** reported in **[2004 (2) B. Cr. C. 556]**, is concerned the accused therein was facing

charge either under Section 307 of the IPC and there was involvement of only one accused. The nature of the offences and gravity thereof involved in the present case and that of the case cited supra can be distinguished and therefore the said case law cannot have any application to the case at our hand.

40. So far as the case law in the case of **Lakhya alias Nikhil Prakash Kshirsagar Vs. The State of Maharashtra** reported in [2015 (1) B Cr. C 450], is concerned the same observations made by this court while referring the case law of **Masoom** (cited supra) can equally be made applicable.

41. During the course of further argument, the Ld. Spl. P. P. Shri. Shishir Hiray also relied upon case law in the case of **Naveen Singh Vs. The State of Uttar Pradesh and another, Criminal Appeal No. 320/2021 arising out of Special Leave Petition (Cri) No. 2545/2020 (Supreme Court of India)** to submit that tampering of the court record or proceeding amounts to forgery of valuable security. I have carefully gone through the case law relied upon as well as the facts and circumstances of the present case. In the case cited supra there was proceeding pending before the court wherein there was forgery / manipulation. In the case at our hand, there is no such direct forgery or manipulation in the existing court record. Therefore, in my humble opinion, the said observations reflected in the said case law cannot be made applicable to the case at our hand.

42. During the course of further argument the Ld. Spl. P. P. Shri. Shishir Hiray relied upon the case law in the case of **State of U. P. through CBI Vs. Amarmani Tripathi** reported in **(2005) 8 Supreme Court Cases 21** to submit that when tampering of the evidence at the hands of accused is possible, then his bail application has to be rejected. I have carefully gone through the said case law and the facts and circumstances of the present case. On careful reading of the case law, it emerges that the same is based upon totally different set of circumstances and the accused Amarmani was a very violent, cruel and extraordinarily influential person and therefore, commenting upon his character, following observations in paragraph No. 11 of the case law were made by the Hon'ble Apex Court -

(11)(ii) That Amarmani was interfering with the investigation, by trying to sidetrack it and mislead the police into a false trail, planting false stories in the media, creating false evidence and threatening witnesses either directly or by using the police. He even managed to get the police officers (including an officer of the rank of SSP) who were not toeing his line, transferred.

(iii) That after release on bail in pursuance of he order of the High Court, Amarmani was attempting to threaten / coerce/ buy over witnesses (Nidhi Shukla, sister, Shanti Kumari Shukla and Najib Khan.)

43. The activities which are attributed to Amarmani

Tripathi cannot be made completely applicable to any of the applicants, particularly, applicants Vishal and Shivani. However, in paragraph No. 18 thereof the Hon'ble Apex Court has laid down certain guidelines regarding grant of bail and the same can be reproduced as under -

18. It is well settled that the matters to be considered in 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 charge; (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 tampered with; and (viii) danger, of course, of justice being thwarted by grant of bail [see Prahlad Singh Bhati v. NCT, Delhi and Gurcharan Singh Vs. State (Delhi Admn.)]. While a vague allegation that the accused may tamper with the evidence or witnesses may not be a ground to refuse bail, if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused.

44. So far as the parameters which have been laid down for grant or refusal of the bail, the parameters (iii)

Severity of the punishment in the event of conviction, (v) character, behaviour, means, position and standing of the accused; (vii) reasonable apprehension of the witnesses being tampered with; and (viii) danger, of course, of justice being thwarted by grant of bail would have perfect application to the case at our hand.

45. During the course of argument, rejection of the bail applications of all the applicants were also prayed by Investigation Officer Shri. Ganesh Ingale mainly by contending that applicants Vishal and Shivani are financially very strong persons and in the past similar persons like Vijay Mallya, Neerav Modi, Mehul Choksi have eloped from the country after committing crime to thwart the legal process. I have carefully considered his such submissions and record. After perusing the material on record and the status of applicants Vishal and Shivani, being Builder and Developers by profession operating mainly in Pune City, their status cannot be equated with that of fugitive Vijay Mallya, Neerav Modi, Mehul Choksi. Therefore, this submission appears to be fanciful and hence deserves rejection.

46. During the course of arguments, all the learned Advocates vehemently submitted that the evidence in the case is mainly either of the nature of electronic evidence or documentary evidence which is completely in the possession of the Investigating Agency and therefore the possibility of

tampering of the same at the hands of applicants is almost Nil. I have carefully considered this submission and record. It needs to be mentioned here that in the present matter apart from documentary and electronic evidence, there are several statements of several witnesses recorded either by the Investigating Officer or the learned J. M. F. C., under Section 164 of Cr. P. C. No doubt, as rightly pointed out the possibility of tampering with documentary and electronic evidence by the applicants may be Nil, but the same cannot be treated to be acceptable as regards the statements of several witnesses whose oral evidence in the court would be of very crucial nature. In the event if they are won over by the applicants by adopting the same modes as they adopted in replacing the blood samples then the present case may not reach its expected legal conclusion. It is a matter of record that applicants Vishal and Shivani certainly used their financial power to influence applicants Dr. Halnor and Dr. Taware and with the help of remaining applicants, they pocketed them to achieve their target of shielding CCL Vedant by replacing blood of applicant Shivani in the place of CCL Vedant and also succeeded in forging valuable security as discussed above. After perusing the entire charge-sheet which runs into almost 900 pages clearly goes to show that even before the splashes of blood lying on the road of the victims /occupants of the motorcycle could get dried, the tampering with the evidence commenced and even concluded to a large extent, with the help of monitory influence or otherwise at odd hours of midnight. Having regard to this aspect, it would not be out of context to mention here that

‘tampering is in the genes / DNA of modus of commission of crime.’ Therefore, even though any stringent condition, as requested by all the learned Advocates of all the applicants is imposed directing applicants not to tamper with the evidence, there is sure chance that the same would be tampered by one way or another by utilizing the same modus. In order to avoid this and to have legally expected result to be on record the only option available before this court would be to reject the prayer of applicants to release them on bail, at least, till the evidence of most of the material witnesses is recorded by the court during the course of trial.

47. In view of the same, as observed above by this court, at least evidence of some of the material witnesses is recorded by this court, it is not at all desirable to release any of the applicants on bail. The grant of bail, at this stage, would certainly lead to tampering of the evidence of the material witnesses and thereby the legal course may get thwarted and there may be denial of legal justice to the victims, their family members as well as the society at large. Even otherwise, granting of bail in such a serious matter, may shake the conscious of the society and it would ultimately lead to sending a wrong message to the society at large. Hence, in the considered view of this court, no case is made out by applicants to have their release on bail. Therefore, following order is passed to meet the proper ends of justice. -

46.. Cri. B. A. 3780/2024, 3799/2024, 3626/2024,
3432/2024, 4021/2024 and 3517/2024

ORDER

The Bail Application bearing Nos. 3780/2024, 3799/2024, 3626/2024, 3432/2024, 4021/2024 and 3517/2024 in Special Case No. 917/2024 arising out of Crime No. 306/2024 registered with Yerwada Police Station, Pune city are hereby rejected.

Date : 22/08/2024

(U.M. Mudholkar)
Additional Sessions Judge,
Pune

CERTIFICATE

I affirm that the contents of the PDF file Judgment are same word for word as per original Judgment.

Name of Steno	Smt. S. S. Phadke Stenographer Grade I
Name of Court	Shri. U. M. Mudholkar, District Judge 6 and ASJ, Pune.

47.. Cri. B. A. 3780/2024, 3799/2024, 3626/2024,
3432/2024, 4021/2024 and 3517/2024

Date of Order 22.08.2024

Order signed by PO 22.08.2024
on

Order uploaded on 22.08.2024