

Spl.(Atro.) Case No.1/2018
Order Below Ex.60
Dt.17.04.2020
(CNR No.MHWR11000291-2018)

1. This is the second application under Section 439 of Cr.P.C. for grant of bail in connection with Crime No.96/2018 registered with Police Station, Hinganghat against the applicant Sandip Rajaram Bawane for the offence punishable under Sections 302, 201 of Indian Penal Code, 1860 and Section 3(2)(v) of S.C. and S.T. (Prevention of Atrocities) Act.

2. The accused contends that he is falsely implicated in the crime.

3. As per the prosecution case, deceased Akash was the son of informant Daulatrao Shambharkar. Deceased was working with accused Sandip Bawane, who was manufacturing illicit liquor. Somebody had made empty the drums containing mhowra wash belonging to the accused. Out of that there was dispute between deceased and accused and deceased discontinued the work with the accused. As a result, the accused was threatening him. On 18.01.2018, deceased Akash attended the fair at village Taroda. However, on that day, he did not return to the house. On 19.01.2018, when informant was grazing the goats, his son Vikas and son-in-law Sushil came to him and informed about the murder of deceased Akash near the house of accused. Hence, on the basis of report against the accused, offence came to be registered and accused is arrested and he is under trial prisoner.

4. Heard the learned advocate for applicant and the learned APP on behalf of the State. Perused the charge-sheet and say filed by APP

at Ex.62.

5. The learned advocate for accused submitted that the trial has been expediated by the Hon'ble High Court and it has not been concluded within the time bound period of six months. He further submitted that all the material witnesses have been examined and only the doctor and I.O. are to be examined. There is no direct evidence and hence, he may be released on bail.

6. The learned APP submitted that the offence is of serious nature. The material witnesses have been examined by the prosecution and the trial can be concluded at the earliest.

7. On perusal of the order of Hon'ble High Court, Bench at Nagpur, the time of six months has been granted from the receipt of the order of Hon'ble High Court. The order has been received on 06.11.2019. Hence, the time of six months expires on 05.05.2020. This is the only ground in the application of accused and it is mentioned that as the trial is not concluded within six months, it is change of circumstance. However, as mentioned above, the period expires on 05.05.2020. Moreover, in view of the order of Hon'ble High Court at Bombay relating to the order of Government regarding the lock-down due to Covid-19, the period from which the Courts are not functioning for regular work is to be excluded in case of time bound matters.

8. Apart from the above said circumstances, the dead body has been recovered from near the house of accused. Incriminating material has been seized by Investigating Officer from the premises of house of accused. Hence, there is circumstantial evidence which

has to be considered. The prosecution has examined 8 witnesses till date. Hence, the trial can be concluded at earliest subject the functioning of the Courts for regular work. Hence, no case is made out to release the accused on bail. Hence, the application deserves to be rejected. Hence, I pass the following order.

Order

The application is rejected.

Dictated and pronounced in open Court.

Dt.17.04.2020.

(R.N.Majgaonkar)
Addl. Sessions Judge,
Hinganghat.