

Spl.(Atro.) Case No.1/2018
Order Below Ex.67
Dt.07.08.2020
(CNR No.MHWR11-000291-2018)

1. This is the third bail application under Section 439 of Cr.P.C. for grant of ad-interim bail in view of the guidelines of the High Power Committee due to Covid-19 pandemic. The accused has been arrested in Crime No.96/2018 registered with Police Station, Hinganghat against the applicant Sandip Rajeram Bawane for the offence punishable under Section 302, 201 of Indian Penal Code, 1860 and under Section 3(ii)(v) of Atrocities Act. Since the arrest from 20.01.2018, the applicant is in jail.

2. The accused claims innocence and false implication and claims the release on bail on the ground that his mother is ailing and there is nobody to look after her and he is the only earning member of his family.

3. The prosecution case is that informant Daulat Shambharkar is the father deceased Akash. Akash was serving with the applicant, who was indulged in liquor business. On 18.01.2018, deceased Akash attended the village fare at village Taroda and did not return. Hence, informant went to the house of one Bhaurao Kapte and Manda Kapte, who told him that victim Akash had gone with accused on the last night.

4. On 19.01.2018, dead body of Akash was found in the field of Narayan Danawe with sever injuries on the person of Akash. The informant noticed that the dead body has been dragged there from near the house of accused hence, he lodged the report against the

accused.

5. Heard the learned advocate for applicant and the learned APP. Perused the say filed at Ex.68 and the charge-sheet.

6. The learned advocate for accused has relied on the case **Vaibhav Diliprao Deshmukh -Vs- State of Maharashtra in Criminal Appeal No.18/2020 decided by the Hon'ble High Court, Bombay, Nagpur Bench dated 14.07.2020.**

7. Relying on the case mentioned supra, the learned advocate for applicant submitted that the present case is based on circumstantial evidence and last seen theory. These facts and circumstances are similar to the case relied upon in which the accused has been released on bail. He further submitted that the trial has been expedited by the Hon'ble High Court. However, due to the Covid-19 pandemic, the trial has been held up hence, as there is no direct evidence against the accused, he may be released on bail for the grounds mentioned in the application.

8. The learned APP submitted that in this case in all 8 witnesses have been examined and only the Medical Officer and some Police Officers, who are part of the investigation have to be examined. He further submitted that all the witnesses have supported the prosecution case and there is ample circumstantial evidence against the accused. Further submitted that due to Covid-19 pandemic, the Hon'ble High Court, Bombay has directed to exclude the time till the regular functioning of the Courts so far as the expedite hearing is concerned.

9. I have gone through the charge-sheet as well as the evidence

of the witnesses. PW.4-Manda Hajare and PW.8-Vitthal Kapte have categorically stated that they have last seen the victim in the company of the accused leaving their house with the accused. The spot panchanama shows that blood stains were found in the premises of house of the accused and incriminating articles which were in scattered condition were recovered from the premises of house of the accused. The prosecution case is that the dead body was dragged towards field of one Narayan Danwe from near the premises of the house of accused. It is a brutal murder. In all 8 witnesses have been examined. Hence, the trial is at fag end. The circumstances in the case relied upon by the learned advocate for accused are different as in that case the trial has not commenced. Under such circumstances, considering the circumstantial evidence and last seen theory, it is not fit case 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.07.08.2020

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