

IN THE COURT OF SESSIONS AT AKOLA.
(Presided over by Smt. S.C. Jadhav, Addl. Sessions Judge)

Sessions Trial No. 78/2024

State of Maharashtra
Vrs.
Rajeshwar Uparwat and others

Applicant :- Pravin Ashok Uparwat

ORDER BELOW EX.09.

[Passed on 19.07.2024]

1. The accused No. 2 – Pravin Ashok Uparwat in Crime No. 558/2023, registered with Police Station Patur, Tq. Patur Dist. Akola under Sections-302, 326, 323, 504 read with Section 34 of Indian Penal Code has sought enlargement on regular bail.
2. The applicant-accused contends that there is no prima-facie case made out against him for the alleged offence. The FIR appears to have been lodged with due deliberation and with ulterior motive to involve innocent person in a crime. During the course of investigation, Parmeshwar Uparwat was found elsewhere at the time of alleged incident and therefore, no evidence was found against him. Ultimately, his name came to be deleted from the charge-sheet. According to applicant, conduct of the informant itself shows that he has tried to falsely implicate the accused-applicant in the this case. According to him, P.M. Report is not supporting to the prosecution case. Co-accused - Milind Uparwat is already released by the

Hon'ble High Court, Bombay, Bench at Nagpur in Cri. Application (B.A.) No. 409/2024 on 27.06.2024. The role attributed to the applicant and the role of Milind Uparwat in the charge-sheet is similar. So on the ground of parity, the applicant-accused is entitled for bail. Presence of the applicant is doubtful at the time of incident. Charge-sheet is filed in the present case, hence, custodial interrogation of the applicant is over. The applicant is ready to abide any condition and further ready to furnish surety to the satisfaction of the Court. Hence, he be released on bail.

3. The prosecution has filed reply itself opposing the bail applicant. Prosecution has denied all the adverse allegations made by the applicant and reiterated its case. It is submitted that the offence is serious. There is sufficient evidence against the applicant to show his involvement in the crime. The accused and witnesses are from same vicinity and therefore possibility of dispute between the parties cannot be ruled out. If the applicant is released on bail, he will pressurize the witnesses. Therefore, considering the nature of offence, State has prayed to reject the application.

4. Heard Ld. Adv. Mr. Dildar Khan for the applicant and Ld. A.P.P. Mr. A.R. Fundkar for the State. Perused the charge-sheet. Charge-sheet prima-facie shows that there is sufficient material against the applicant to show his involvement in the crime. The applicant-accused and co-

accused are charged for the offence punishable under Sections- 302, 326, 323, 504 read with Section 34 of Indian Penal Code, based on a report filed by Mohan Sonaji Uparwat. It is alleged that the applicant-accused and co-accused Milind Uparwat(who is already released on bail by the Hon'ble High Court of Bombay, Bench at Nagpur) hold the deceased and then co-accused Parmeshwar assaulted the deceased with iron pipe on his head, due to which the deceased sustained injury and succumbed. The informant Mohan Uparwat is father of the deceased and eye-witness of incident. He has made specific allegations against the applicant and co-accused. Thus, prima-facie it appears that the applicant-accused and co-accused in furtherance of their common intention committed murder of Mangesh Uparwat. The role attributed to the present applicant is clearly mentioned in the report. As such prima-facie there is sufficient evidence against the applicant.

5. As far as parity is concerned, admittedly, co-accused Milind Bhimrao Uparwat already released by Hon'ble High Court of Bombay, Bench at Nagpur in Cri. Application (B.A.) No. 409/2024 on 27.06.2024. However, the offence is serious. Considering the nature of offence and severity of punishment, in my opinion, this is not fit case to exercise the discretion in favour of the applicant-accused. Applicant failed to make out case for grant of bail. Therefore the application deserves to be rejected.

With this, I proceed to pass the following order:-

ORDER

Application stands rejected.

Date : 19.07.2024.

[Smt. S.C.Jadhav]
Additional Sessions Judge, Akola.

Certificate

I hereby certify that the contents of this PDF file are same word for word as per original order:

Name of Steno	:	Shamim Sayed
Court's Name	:	District Judge-2 & A.S.J., Akola
Date	:	19.07.2024
Signed by PO	:	20.07.2024
Uploaded on	:	<u>20.07.2024</u>