

**Application for Regular Bail in Sessions Trial Case
No.74/2021.
Bhimrao @ Appa Bhojane + 3 Vs. State.
Crime No.254/2021 of Telhara Police Station.
(Offences punishable under Sections 302, 307 read with
Section 34 of the Indian Penal Code.)
CNR No. MHAK05-000526-2021.**

**ORDER BELOW EXH.17.
(Dated 27th November, 2021)**

As I am passing this order just below and adjoining to this application itself, I need not reproduce its contents.

2] Strong contesting say Exh.20 is filed on behalf of the State, wherein, it is contended that,

The offences are very serious. *Modus oprendi* of the accused is very cruel. The accused have used axe, iron pipes and *Sabbal* i.e. very heavy and densed iron rod used for unearthing. The accused, the complainant and witnesses reside in the same small village. If released on bail, law and order problem may create. The accused may threaten the complainant and witnesses. He may tamper with evidence. He may abscond. Sufficient evidence is collected during investigation against this accused so as to convict him. Hence, this application be rejected.

3] Perused application Exh.17. Perused contesting say Exh.20 of the State. Perused the entire record. Heard the

learned advocates appearing in this matter.

4] Argument of the learned advocate for present applicant accused No.4 Darshan is acceptable that, now investigation is complete as final report in the form of charge-sheet is placed in the Court. However, argument of the learned A.P.P. is also acceptable that, only for that, the accused does not become entitle to be released on bail. There are many reasons for that.

5] In short, it is case of the prosecution that, Devidas and Pramila, respectively husband and wife, had two sons. One Ajay and other Vijay. Pooja is wife of Ajay. In January 2021, Prafful (son of accused Bhimrao Bhojane and brother of present applicant accused Darshan) abducted that Pooja. Since then, there is dispute in between family of the complainant at one hand and of the accused on the other.

6] It is further contended by the prosecution that, ultimately on 29.05.2021, at about 7.00 a.m., all the accused gathered in front of house of the complainant. The accused were armed with deadly weapons like axe, iron pipes and *Sabbal*. The accused opened attack on family members of the complainant. In the course, Devidas (husband of the complainant) and Ajay (one of the sons of the complainant) are

murdered by the accused. Even Vijay (another son of the complainant) and the complainant herself also sustained severe hurts, but saved fated.

7] To buttress the contentions, the prosecution has recorded statements of many witnesses, including injured complainant Pramila and her son Vijay. There are also statements of some other eye witnesses and other witnesses, who depose in respect of the root cause of rivalry and of taking place of the incident as a result of that rivalry.

8] Thus, in this matter, the prosecution alleges that, the accused have committed murder of two persons i.e. of Devidas and Ajay and attempted to commit murder of Pramila and Vijay. Though it is contended in this application Exh.17 that, present applicant accused No.4 is blind, at this moment, there is no evidence to support this contention. Arrest panchanama dated 29.05.2021 of the accused is on record. It does not contain anything about blindness of the accused.

9] Rather, it is alleged in the complaint and in statements of eye witnesses that, on the date, time and place of the incident, present applicant accused Darshan had carried *Sabbal* (heavy and densed iron rod used for unearthing). With that, this accused Darshan dealt a blow on the head of Vijay and

ran away. It is on this base, the learned advocate for the present applicant accused argues vehemently that, no other role is attributed to this accused Darshan except than assaulting Vijay with *Sabbal*, and hence, on this basis also, he prays to release the accused on bail. This argument is not acceptable.

10] *Prima facie*, it becomes clear that, Prafful (son of accused Bhimrao and brother of accused Darshan) has abducted wife of Ajay (i.e. daughter-in-law of the complainant). Presence of all the accused on the date, time and place of the incident is narrated by eye witnesses and other witnesses as well. Considering that son/brother of present accused has abducted the pride and honour of the family of the complainant, this can be a sound ground of dispute between these two families.

11] Hence, certainly it can safely be inferred that, all the accused when gathered on the date, time and place of the incident, that too, with deadly weapons like axe, iron pipes, *Sabbal* and assaulted family members of the complainant, certainly all the accused have acted in furtherance of their common intention and nothing else.

12] Hence, it can not be said that, as present applicant accused No.4 Darshan dealt a single blow only of *Sabbal* on the head of Vijay, and thereafter, ran away, he is entitled for bail,

certainly not. Vijay also saved fated, otherwise heavy blow of *Sabbal* on vital part like head/brain is sufficient to cause death of a person in normal course. Then, present applicant accused Darshan even acted in furtherance of common intention with his father accused Bhimrao and other accused Rajesh, who done away Devidas and Ajay.

13] Certainly, the offences have taken place in very near past. Two murders are alleged to have been committed by the accused. The *modus oprendi* of the accused is certainly cruel. The offences do not appear to have taken place in the wreek of moment. On the date of the incident, there was trivial dispute/hot exchange of words in between the complainant Pramila Devidas Bhojane and lady accused Pramila Bhimrao Bhojane and following that, then on the same date soon thereafter, all the accused, armed with deadly weapons, gathered in front of the house of the complainant and after opening attack on family members of the complainant, done away Devidas and Ajay and caused grievous hurts to the complainant Pramila and her other son Vijay.

14] It is in this background, if this applicant accused is released on bail, certainly it is likely to cause terror in the minds of lady complainant Pramila, residing in the small village where the accused do. There is also likelihood of causing terror in the

minds of other injured Vijay. There is possibility of tampering with evidence and other witnesses as well.

15] Hence, considering all these facts and circumstances, this application Exh.17 deserves to be rejected and stands rejected accordingly.

Date : 27.11.2021.

(Chakor Shrikrishna Baviskar)
Additional Sessions Judge,
Akot, Dist. Akola.

Certificate

I affirm that the contents of this P.D.F. file are same word for word as per original order.

Name of Steno : Anil D. Bais, Steno. Grade I.

Court Name : Additional Sessions Judge, Akot.

Date of Dictation : 27.11.2021.

Signed by Presiding on : 28.11.2021.

Uploaded on : 30.11.2021.

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