

IN THE COURT OF ADDL.SESIONS JUDGE AT VALJAPUR
DISTRICT AURANGABAD

MHAU040016862024



Sessions Case No.103/2024
The State of Maharashtra Vs. Arun
Sonawane and others
Crime No. 187/2024, P.S. Veergaon
Offence pun.u/s 302, 307, 143, 147, 148, 149,
504 of IPC

ORDER BELOW EXH.04

01] This is an application under section 483 of the Bharatiya Nagarik Suraksha Sanhita 2023 for grant of bail by accused No.5 Sahebrao Dagadu Sonawane and accused No.7 Shantavan Dagadu.

02] The investigation officer by filing his reply vide Exh. 05 has strongly opposed the application on the following grounds:-

- a] That, the red colour Mahindra company tractor used by the present applicants is yet to be recovered and if applicants are released on bail, there will be least possibility of recovery of said tractor.
- b] That, there is possibility of tampering with prosecution witnesses if accused are released on bail.

03] Heard learned counsel for accused persons and learned APP for the State. Perused the application, reply and the charge-sheet. The FIR shows the allegations that on 05.06.2024 at about 02.30 p.m. while Sushil Anand Sonawane brought Mahindra tractor in the field of informant for ploughing, the informant, his nephew Raosaheb Markas, his brother Markas, Petras, Anil Ramesh Sonawane and Bhanudas Ramchandra Sonawane asked him as to why he brought the tractor in their field. On such asking, accused Sushil Anand Sonawane and Balu Sonawane started abusing them. Balu Sonawane also started abusing to the brothers of informant. The informant and his above named associates told accused Sushil that the said land belongs to them, 7/12 extracts are in their names and as to how he can plough the said land and asked him to stop the tractor. Because of such talk, accused Sushil Sonawane followed behind them with tractor. At that time, accused Arun Antawan Sonawane, Anand Anatawan Sonawane, Balu Dagadu Sonawane, Sahebrao Dagadu Sonawane, Anil Dagadu Sonawane, Shantawan Dagadu Sonawane, Pravin Balu Sonawane, Gaurav Ajit Sonawane, Vikas Balu Sonawane and Rajesh Anil Sonawane rushed over their persons with sticks, axe and Koyata. The informant and his associates fell down as the tractor ran over them. Accused Arun Antawan Sonawane inflicted axe blow on the head of Petras. While the informant tried to save Petras, accused Arun Antawan Sonawane inflicted blow by an axe over his head. While Petras was lying down, accused Sahebrao Dagadu Sonawane inflicted blows by an axe over his head and legs. Accused Anand Shantawan Sonawane inflicted blow by Koyata on the hand of Markas. Accused Pravin Balu Sonawane, Gaurav Ajit Sonawane, Vilas Balu Sonawane, Rajesh Anil Sonawane inflicted

blows by sticks to the informant and his associates. Accused Balu Dagadu Sonawane and Shantavan Dagadu Sonawane inflicted blows by iron rod over the persons of Anil and Bhanudas. Accused Arun Antawan Sonawane inflicted blow by an axe on the waist of Anil Ramesh Sonawane. Accused Balu Dagadu Sonawane inflicted blow by an axe on the legs of Bhanudas. Accused Sushil Anand Sonawane ran down Petras Sonawane with tractor and accused Arun Antawan Sonawane and Shantawan Dagadu Sonawane caused grievous hurt to Petras. The informant ran away from the spot but his brothers Markas and Petras could not run away from the spot as their legs were broken. Thereafter the nephew of informant namely Vaibhav made phone call to Prashant Bhaginath Shingare. He brought his four wheeler vehicle and through the said vehicle, they shifted injured Markas and Petras to the civil hospital at Vaijapur. Thereafter, they were shifted at Ghati hospital Aurangabad. Petras Harku Sonawane was unconscious due to blow by an axe over his head and after examination, medical officer declared him as dead. The FIR shows that an offences punishable under sections 302, 307, 143, 148, 149, 504 of IPC have been registered against the present applicants and others vide crime No. 187/2024 at Virgaon Police Station.

04] It is the submission of learned counsel for the applicants that the alleged assaults by the applicants do not corroborate by the medical certificates and therefore, there is possibility of false implication of the applicants in the crime and because of such possibility, applicants deserve to be released on bail. It is his further submission that the Hon'ble High Court has granted bail to accused Pravin Balu Sonawane, Vilas Balu

Sonawane and Rajesh Anil Sonawane, who are assigned the similar role, vide order dated 21.08.2024 in Bail Application No.1321 of 2024 and 1356 of 2024 and therefore, on the ground of parity the present applicants are also entitled to be released on bail.

05] So far as the first submission of learned counsel for the applicants is concerned, I would like to point out that it is well settled that when there is discrepancy between ocular and medical evidence, ocular testimony prevails over medical evidence and therefore, I find no substance in the submission of learned counsel for the applicants. Moreover, the learned APP is right in his submission that the intention and not the injury is material in offence under section 307 of IPC and therefore, though the medical certificates do not corroborate with the alleged assault, it cannot be said that the applicants did not intend to cause the death of the above named persons. The role of present applicants is underlined in Para No.3 of this order and considering such role, applicants cannot be released on bail.

06] So far as the next submission of learned counsel for the applicants is concerned, I would like to point out that it is true that the Hon'ble High Court has granted bail to accused Pravin Balu Sonawane, Vilas Balu Sonawane and Rajesh Anil Sonawane. But, in my considered view, the ground of parity can only be urged before the same Court which granted bail to other accused persons.

07] It is well settled that while considering the grant or refusal of bail the gravity of offence and severity of punishment needs to be considered.

The offence punishable under section 307 of IPC is grave in nature and is punishable with imprisonment for life, if hurt is caused, and in the present case there are medical certificates on record showing that the concerned persons sustained hurt as mentioned in these certificates. Not only this, the applicants along with other accused persons are also being prosecuted for the murder of Petras Harku Sonawane and the punishment provided for murder is life imprisonment or death. Therefore, the applicants cannot be released on bail. Moreover, the possibility of tampering with prosecution witnesses cannot be ruled out. Hence, applicants cannot be released on bail. I, therefore, proceed to pass following order :-

ORDER

Application Exh.04 is hereby rejected.

Date : 05-02-2025

(R.D.Gadwe)
Addl. Sessions Judge-1, Vaijapur

CERTIFICATE

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

Name of the Stenographer : Balaji N.Kuntalwar, Steno Grade-1.

Court Name : District Judge-1 & ASJ Vaijapur

Date : 05-02-2025

Order signed by the

Presiding Officer on : 05-02-2025

Order uploaded on : 05-02-2025