

MHBU040008352020



Order below Exh.63
(Passed on 8.6. 2021)

1. This is second application preferred by applicant/accused Vishal Santosh Gawai for bail. The charges against the applicant/accused are for the offences punishable under sections 302, 353, 143, 109 of IPC, section 51(b) of Disaster Management Act, 2005 and sections 2 & 4 of Epidemic Disease Act, 1897. It is contended by learned Advocate Mr. V.V. Zadokar, on behalf of the applicant/accused that as seen from the material on record, no over act is attributed to the present applicant/accused. The applicant/accused is innocent person working as helper on the vehicle. From the date of incident he was not driving the vehicle and is not connected with the present crime. The other co-accused are already released on bail. The applicant/accused is in jail since 20.4.2020 .He is permanent resident of Kathora, Tq. Shegaon, Dist. Buldana, and is falsely implicated in the present crime. Just because of malice and ill-will the informant gave false report against the present applicant/accused. No incident as alleged by the informant took place. There are no criminal antecedent against the applicant/accused he is ready to abide by all the terms and conditions of bail and is ready to co-operate with the investigating machinery. Considering all these aspects, he prayed for releasing the applicant/accused on bail.

2. The learned Adv. for applicant/accused relied upon the case law **[2011 (1) B Cr 325 (SC) State of Kerala V/s. Raneef]**, wherein it is held that “ factor of delay in conducting trial should be taken in to consideration while deciding the bail application.”

The learned Adv. for applicant/accused also relied upon the bail order in Bail Appln.No.703/2020 dated 6.8.2020, Bail Appln. No.650/2020 dated 23.11.2020 and Bail Appln. No.1180/2020 dated 18.1.2021.

3. The learned APP Mr. U.S. Apte has filed say below Exh.66 and contended that the applicant/accused drove the vehicle i.e. Tipper containing sand which he was transporting illegally and when the deceased asked him to stop his vehicle, instead of compliance the same he drove the vehicle on the person of the deceased and committed a very brutal death of the deceased. If the applicant/accused is released on bail he might threaten, pressure and induce the victim as well as other prosecution witnesses. Hence, considering for all these aspects prayed for rejecting the application.

4. Perused the application, charge sheet and documents on record. It is seen that when the deceased tried to stop the Tipper containing sand which he was transporting illegally, but instead of stopping the vehicle, the applicant/accused drove it on the person of deceased. The offences levelled against the applicant/accused is very serious in nature and there is sufficient evidence on record to proceed with the same. Hence it would not be proper to release the applicant/accused

on bail. The application Exh.63 stands rejected.

Date : 8.6.2021

(A.S.Wairagade)
Addl. Sessions Judge, Khamgaon,
Dist. Buldana.

Certificate

I certify that this order PDF uploaded is a true and correct copy of original signed order.

Name of Steno : Mrs. Nishat Anjum Mohd. Rafique.

Name of Court : Addl. Sessions Judge, Khamgaon, Dist. Buldana.