

S.T. No.76/2020
State V/s. Vishal & others

CNR No.MHBU04000835-2020

MHBU040008352020



Order below Exh.72
(Passed on 5.3. 2022)

1. This the second bail preferred by applicant/accused Vishal Santosh Gawali for bail u/s 439 of Cr.P.C. The charges against the applicant/accused are for the offences punishable under sections 302, 353, 143, 109 of IPC and section 31(b) of Disaster Management Act, 2005 and sections 2 and 4 of Epidemic Disease Act, 1897. It is contended by learned Advocate Mr.V.V. Zadokar, on behalf of the accused/applicant that as seen from the material on record, no over act is attributed to the present accused/applicant. He 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. He further submitted that the other co-accused are already released on bail. The accused/applicant is in jail since 24.4.2020. 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 accused/applicant. No incident as alleged by the informant took place. There are no criminal antecedent against accused/applicant. 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 accused/applicant on bail.

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2. The learned APP Mr. U.S. Apte, has filed say overleaf the application and stated that as per the direction given by the Hon'ble High Court, the accused/applicant was refrained from making any bail application for a period of one year. However, the accused/applicant filed bail application before completion of one year and for say, hearing and decision of the bail application the matter was held up. So also for last one and half year because of pandemic due to COVID 19 the trial could not be commenced. However i.e. no lapse of prosecution and the prosecution is ready to commence the trial. Hence prayed for rejecting the application.

3. 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, accused/applicant drove it on the person of deceased. There was mobile communication between the accused persons and with premeditation the present crime was committed. The offences leveled against accused/applicant is very serious in nature and there is sufficient evidence on record to proceed with the matter. Hence it would not be proper to release accused/applicant on bail. The application Exh.72 stands rejected.

(A.S.Wairagade)

Date : 5.3.2022

Addl. Sessions Judge, Khamgaon,
Dist. Buldana.

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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.