

ORDER BELOW EXH. 6 (BAIL APPLICATION)

(Passed on 31.08.2020)

The applicant is behind the bar since 03.06.2020 is seeking a bail in an offence punishable U/sec. 302, 506 of Indian Penal Code r/w Sec. 2(1)(kh)(6) of Black Magic Act and relevant Sections of SC & ST (Prevention of Atrocities Act) in connection of homicidal death amounting to murder of one Dayaram Kashiram Randaye.

As per the prosecution, deceased Dayaram Kashiram Randye, aged about 60 years is a neighbour of accused. On 02.06.2020 said Dayaram grazed the cow and came back to the house, surprisingly the accused and his parents picked up a quarrel with Dayaram, posing that he is playing the black magic. They also threatened to his life. On next day i.e. on 03.06.2020 around 3.00 p.m. the deceased was proceeding towards Bhis square. The accused brought his tractor from behind and gave a dash to Dayaram intentionally, in consequence Dayaram sustained injuries and lost his life. On same day, widow of Dayaram i.e. Tarabai lodged the report, leading to register the aforesaid offences as well as arrest of accused.

Initially, the accused had moved an application for bail just within 3 days from his arrest. The same was came to be turned down on 12.06.2020 on the ground that the investigation is in progress. Now investigation is over, even charge-sheet is filed,

hence he moved the instant application afresh. I heard Ld. counsel, gone through the record. At the time of argument the Ld. counsel averred that the accused and his parents already left village Shankarpur wherein the deceased was residing. Now they are residing at village Wakarla for that they submitted the affidavit of family members as well as a certificate of Chairman, Tanta Mukti Samiti, village Wakarla. He shown readiness to abide all conditions.

2. On the other hand, the prosecution put up a reply. I heard both the sides at length, perused the charge-sheet. The accused is hardly 19 years old. He just passed out the 12th standard examination. Investigation is over, hence charge-sheet is put up on record. The statement of witnesses prima-facie does not reflect that the accused gave a dash intentionally and crushed Dayaram under the wheel of tractor. Whether the act on the part of accused was intentional or it was accidental is a mixed question of fact and law and would be cleared on merit of the matter only. Now the accused and his family members are already left the village of deceased as well as witnesses, hence no scope to tamper the prosecution evidence.

In order to prevent the spread of Corono virus the Hon'ble Superior Courts already guided to subordinate Courts to reduce the crowd of accused from jail premises, even in the offence

punishable U/sec. 302 of Indian Penal Code, provided the facts and circumstances are permitted. Taking into consideration the aforesaid discussion the applicant/accused is entitled to get the bail, but with some terms and conditions. I proceed to pass following order ;

ORDER

1. Accused by name Rohan Bhaiya Malve, aged 19 years be released on executing P.R.Bond of Rs.20,000/- with one/two solvent sureties in like amount in offence punishable u/s 302, 506 of Indian Penal Code r/w Sec. 2(1)(kh)(6) of Black Magic Act and 3(2) (5), 3(1)(zb) of S.C. & S.T. (Pre.of Atro. Act) on following terms and conditions :
 - i) He should not meet or pressurize the complainant and other prosecution witnesses by any mode.
 - ii) He should not enter into village Shankarpur.
 - iii) He should not leave district Chandrapur permanently without the permission of this Court till the decision of main trial.
 - iv) He should be punctual in attending the trial.
2. Application Exh.6 disposed of accordingly.

Warora
Date : 31.08.2020

(D.K. Bhende)
Special Judge,
Warora.