

Sessions Case No.87/2018

The State of Maharashtra

-versus-

Mahendra Madhavrao Devre

Order Below Exh.9

Accused has sought bail under Section 439 of Cr.P.C. in connection with Crime No.129/2018 registered with Dhule Taluka police station for the offences punishable under Sections 302, 324, 323, 504, 506 IPC.

02. In short, facts of the case are as under;

On 27-04-2018 at about 9-30pm informant Dagdu Marathe and deceased Devidas Pawar were proceeding on old Pimpalkotha road at village Mukti. Accused Piyu Davalse(Bhil) and Raju More(Bhil) met them and demanded money for liquor. When met with refusal, accused persons gave push and pulls to the informant and deceased and abused them. Accused Piyu called accused Mahendra(present accused) by phone. He came on motorcycle. He also abused and threatened the informant and deceased. Somehow they effected release and went to the field of informant.

03. Devidas slept on ground and Dagdu slept on bed(cot). Between 11-00pm to 11-30pm informant received a blow of wooden rod on his nose and he woke up. He found accused Piyu holding axe when he lit the torch. Piyu dealt a blow of axe rod on informant's head. Accused Mahendra dealt stick blow on his face and accused Raju dealt fist blows and threatened the informant. At that time, informant beat accused Piyu with his torch. Thereafter, accused Piyu

dealt axe blows on head and neck of Devidas who sustained bleeding injuries. Informant rushed to the village and informed the incident to the wife of deceased. Subsequently, Devidas died. In such circumstances, FIR came to be registered. Accused was arrested on 28-04-2018 and since then he is in custody.

04. The State has opposed bail application on various grounds.

05. Ld.Adv. Shri.M.S.Patil for the accused has submitted that this is second bail application. Earlier bail application B.A. No.319/2018 was filed before filing of chargesheet and it was rejected on 16-05-2018. Accused Mahendra has no cell phone with him at any time so there is no question of calling him by phone. Accused Mahendra beat only informant by stick and he did not commit assault on the deceased. This is not the case of common intention. Informant sustained simple injury. Investigation is over. There are no chances of tampering since informant himself is injured. Accused is local resident and is ready to abide by conditions of bail.

06. Ld.PP Shri.D.Y.Tavar has submitted that present accused moved with remaining two accused and took part in both incidents. He used stick to commit assault which shows his common intention with the other accused. He did not stop others while committing assault which also shows his common intention with other accused. Informant is the eye witness of the incident. Weapon of offence stick has been recovered from the accused. Both sides reside in same village so tampering cannot be ruled out. He has prayed for rejection

of the application.

07. Since chargesheet is filed and case is committed, it is obvious that investigation is over. Both weapons of offence were seized in the course of investigation. This is not the time to dwell upon the issue of common intention and as to how the incident unfolded. Accused Mahendra's presence in both incidents has been stated in FIR. Specific allegation against him is dealing stick blow to the informant. Apart from that he did not commit act of violence. He did not assault the deceased in any manner. As far as bail is concerned, specific allegations against each of the accused required to be considered. Hence, considering the fact that investigation is over and the allegation against present accused, this is fit case to grant bail to the accused. In the result, I pass following order.

ORDER

01. The application is allowed.
02. Accused/applicant Mahendra Madhavrao Devre be released on execution of P.B. of Rs.25,000/-with one solvent surety in the like amount.
03. Accused shall attend the concerned police station on every Monday between 10-00am to 12-00noon till three months from the date of his release.
04. Accused shall not enter village Mukti till conclusion of trial.
05. The accused shall not tamper prosecution evidence.

Sd/-

[A.D.Kshirsagar]

Addl. Sessions Judge, Dhule.

Date:-18-09-2018

Certificate

I certify that the contents of this PDF file
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Name of the Steno : Nandkishor E.Kolhe
Name of the Court : Court of District Judge-3
& Addl. Sessions Judge, Dhule.
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Sd/-...
Stenographer