

**SESSIONS CASE NO.103/2018**

Darshan Ambadas Pardeshi

-versus-

The State of Maharashtra

**Order Below Exh.27**

Accused Darshan Ambadas Pardeshi has sought bail under Section 439 of Cr.P.C. in connection with Crime No.75/2018 registered with Devpur(w) police station for the offences punishable under Section 302,307,341,201,120(B),109,143,147,148,149 of IPC., Section 4, 7/25 of Arms Act and Section 37(1)(3) r/w. 135 of The Bombay Police Act.

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

This is a case of double murder on 08-06-2018. There were bickerings and disputes between two sides led by accused Bajirao Pawar and deceased Raosaheb Patil. Close relatives of both of them were aware of the dispute and under currents. On 08-06-2018 informant Prashant Patil who is younger brother of deceased Raosaheb received information from Hitesh Patil that accused Rhushikesh Patil followed him. Hitesh proceeded to give medicines to deceased Raosaheb so informant Prashant had suspicion of such information of pursuit and he immediately started to meet his brother Raosaheb. He was accompanied by his other relatives.

03. When they were proceeding in front of the house of accused Jayraj Patil, they found that accused Gaurav, Jayraj, Rhushikesh, Sonu @ Vaibhav, Harshal @ Dadu, Bhupesh @ Bhupendra and Bhushan intercepted deceased Raosaheb, his son Vaibhav and Harish Shinde while they were proceeding in Scorpio

vehicle. Some witnesses saw that aforesaid accused persons committed brutal assault on Raosaheb and Vaibhav with deadly weapons like sword, scythe, Kukri and iron rod etc. The informant partly saw the incident. However, the other witnesses saw the entire incident. The accused persons dealt number of blows on vital body parts of Raosaheb and his son Vaibhav who succumbed to the incident. Both were taken to the hospital for medical treatment. Vaibhav was declared dead on arrival and Raosaheb died after some time. Prashant registered FIR at about 00-58 hours on 09-06-2018.

04. Offence came to be registered at C.R.No.75/2018 and investigation commenced. Accused were arrested in due course. After completion of investigation chargesheet was submitted. After committal the case has been assigned to this Court. Accused Darshan Pardeshi was arrested on 16-06-2018.

05. The State has opposed bail application on various grounds by filing say. The first informant has opposed the bail application by filing his say. Heard both sides at length.

06. Ld.Adv.Shri.B.B.Waghmare for the accused has submitted that accused was not present on the spot. He is falsely implicated. No overt act is attributed to him. None of the witnesses has stated about specific act of this accused. Even his name is not mentioned by any other witness. During the relevant period examination of the accused was going on. He attended examination till 09-06-2018. Had he been participated in the offence, he would have absconded on 08-06-2018. Investigation is complete and nothing is recovered from the accused.

If CDR record is relied to show that accused continuously talked with other co-accused, this falsifies the case of presence of accused Darshan on the spot. No purpose will be served by keeping the accused in jail. Trial will take long time. There are no criminal antecedents. Accused is permanent resident of Nijampur, Dist:-Dhule. He is ready to abide by conditions of bail.

07. Ld.PP Shri.D.Y.Tawar has submitted that it is settled legal position that FIR is not encyclopedia. Witness Omprakash Patil stated that there were four to five unknown assailants. Number of witnesses identified the accused in T.I.Parade. The CDR record shows that accused talked with number of co-accused on the day of incident as well as immediately before and after said day. The accused persons who came from Nijampur disposed blood stained clothes by burning. Memorandum statements of co-accused recorded under Section 27 Indian Evidence Act disclosed presence of accused on the spot and his participation. He has submitted that defence of alibi has to be proved by evidence at the time of trial. Investigation is still going on in respect of three absconding accused who are arrested subsequently.

08. Ld. Advocate Shri.N.G.Dusane has submitted written submissions. He has submitted that the informant and his relatives are constantly threatened. He has submitted printout taken from social media. He has supported submissions of Shri.Tavar on material aspects. According to him, even if it is accepted that on 08-06-2018 accused attended examination at Sakri between 10-30am to 1-30pm, he could have easily reached Dhule well before the time of incident 6-30 pm. Two independent witnesses have identified the accused in

T.I.Parade. Further investigation is going on and it is likely to be adversely affected.

09. It is the case of brutal double murder. Brutality can be seen from the manner in which assault is committed and number of injuries sustained by both deceased. Deceased Raosaheb sustained 17 injuries on vital body parts and deceased Vaibhav sustained 16 injuries. The incident took place in broad day light at about 6-00pm and in residential area.

10. As far as alibi defence is considered Shri.Tavar and Shri.Dusane have relied on the decision of Hon'ble Bombay High Court in **Udayanraje Pratapsinhraje Bhosale Vs. The State of Maharashtra 2000 ALL MR (Cri) 1741**. In the reported judgment Hon'ble High Court observed that question of defence of alibi is not gone into by the Court at the stage of bail as it would have to be proved by the applicant in terms of Section 106 of the Indian Evidence Act at the time of the trial. So that defence cannot be taken into consideration at this juncture.

11. The prosecution case shows that some accused who are known to informant and close relatives of the deceased persons, committed assault alongwith some unknown persons. Few of the accused are residents of Nijampur and present accused Darshan is one of them. Obviously, their names are not reflected in FIR and statements of eye witnesses. However, the witnesses stated before the police that they could identify the unknown assailants. After arrest of present accused Darshan, his T.I.Parade was conducted. In such T.I.Parade informant Prashant Patil and witnesses Harish Shinde,

Akash @ Hitesh Patil, Yogesh Patil, Sunil @ Bhaiyya Mohite and Prashant Patil identified accused Darshan. Out of these witnesses, Sunil Mohite and last named Prashant Patil are two independent witnesses who identified the accused. It is the prosecution case that after commission of offence some accused fled by the Skoda car in which they arrived to Dhule. They burnt their blood stained clothes to destroy the evidence. This is also allegation against present accused. Considering these aspects, there is prima facie material showing involvement of the accused in the offence.

12. Recently three of the accused were arrested and further investigation is going on. Some new facts may be discovered. There are written complaints regarding threats given to the informant and other family members. Even today Shri.Dusane has submitted printouts taken from social media in which veiled threats are given to the informant while posting birthday wishes to accused Vaibhav Pawar and Gaurav Pawar. Informant filed complaint about threats on 30-10-2018. Considering all these aspects, this is not fit case to grant bail to the accused. In the result, I pass following order.

**ORDER**

Application is rejected.

Sd/-

[ A.D.Kshirsagar]

Addl. Sessions Judge, Dhule.

Date:-13-12-2018

**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.  
**PDF Uploading Date** : 15-12-2018.

Sd/-...  
(Nandkishor E.Kolhe)