

IN THE COURT OF DISTRICT JUDGE-1, & ASJ, GONDIA.

SESSIONS TRIAL NO. 21/2022.

(CNR NO.MHGO01000409-2022)

State, PSO, Salekasa -Vs- Gajanan & oth.

ORDER BELOW EXH. 33.

(Passed on this 2nd day of July, 2022)

This is an application for grant of temporary bail filed by applicant/accused No.4 Khushal Giravlal Uprade for attending 3rd Semester examination of MSc. In support thereof he has relied upon the bonafide certificate issued by the Dr. Arun Motghare Mahavidyalaya, Kondha-Kosra, Tah. Pauni, Dist. Bhandara, payement receipt of 3rd Semester Examination to be held in Summer, 2022 and the time table of Nagpur Unervicity and the time table issued by Nagpur University 3rd Semester Examination.

2. Learned advocate for the applicant submits that the applicant/accused has been implicated in Crime No. 05/2022 for the alleged offence punishable under Sec. 302 r/w 34 of the I.P.C. and Sec. 3(2)(5a), 3(2)(v) of the SC & ST (Prevention of Atrocities) Act. The applicant was earlier by order dated 25/05/2022 passed below Exh.07 and order dated 15.06.2022 passed below Exh. 26 granted temporary bail for attending practical examination from 31/05/2022 to 01/06/2022 and 4th Semester Examination from 15.06.2022 to 28.06.2022. The applicant has abided by all the conditions

and has surrendered before the Court on 01/06/2022 as directed by the Court. Subsequently, after availing temporary bail as per order below Exh. 26 the applicant has again surrendered before Superintendent of Prison on 28.06.2022. In support thereof, he has also filed pursis at Exh. 38. He submits that the said application for temporary bail only and not on the merits and considering the academic carrier of the applicant he may be granted temporary bail for attending the examination.

3. I.O. has filed reply at Exh. 36 and opposed the application on the ground that the applicant is the main accused. There are eye witnesses who have named the applicant as assailant. The applicant may threaten or influence the witnesses. The case is based on caste bias. He has prayed for rejection of the application.

4. Ld. APP Shri. Khandelwal has opposed the application on the ground that prima-facie case is made out against the accused for offence under Sec.302 of I.P.C. The applicant has committed murder of deceased who belonged to Scheduled Caste as he was having love affair with his sister. The hall ticket is not annexed. He has not submitted any proof

that he attended the practical examination earlier. He has prayed for rejection of the application.

5. Heard learned advocate Shri D. J. Wanjari who appeared on behalf of the victim and has opposed the application on the ground that the prima-facie case is made out against the applicant. Witnesses has named him as an assailant. He is not entitled for grant of bail including temporary bail. Time and again the applicant is seeking temporoary bail of appearing in the examination. The offence is grievous. He has prayed for rejection of the application.

6. I have gone through the charge-sheet. Prima-facie case is made out against the applicant who has been named accused/applicant an assailant by the witnesses. The offence is grievous. However, this application is not being decided on merits to enlarge him on bail till conclusion of the trial. The consideration before the Court is whether the academic carrier of the applicant should hamper. The applicant was earlier by my learned predecessor's order granted temporary bail for attending practical examination as per order below Exh.7 and was enlarged on temporary bail. As per the directions of the court after appearing in the practical examination the accused surrendered before the Court on the

given date. Thereafter, also by order dated 15.06.2022 passed below Exh. 26 this Court granted temporary bail to the applicant. The applicant after availing said temporary bail had surrendered before the Jail Authority as per pursis at Exh. 38. The conduct of the applicant shows that there are remote chances of his absconding and abided by the earlier conditions imposed by said order.

7. Under such circumstances, he is entitled for grant of temporary bail. As per the time table the examination are starting from 04.07.2022 to 12.07.2022. Hence, I pass following order.

ORDER

- 1] Application [Exh.33] is allowed.
- 2] The applicant/accused Khushal Giraval Upgrade be released on his executing PR & SB bond of Rs.15,000/- on temporary bail from 03.07.2022 to 13.07.2022 on the following conditions;
 - i] The applicant shall not enter village Nimba, Tah. Salekasa.
 - ii] The applicant shall not threaten or influence the witnesses directly or indirectly.

- iii] The applicant shall surrendered before the Superintendent of District Prison, Bhandara on 13.07.2022 before 5.00 p.m. positively.
- 3] Superintendent of District Prison, Bhandara to take note of order and comply.
- 4] Hamdast granted.
- 5] Application is disposed of.

Gondia.
Dated: 02.07.2022.

Sd/-
(Adil M. Khan)
District Judge-1 & ASJ,
Gondia.