

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

SPECIAL (ATRO) CASE NO. 21/2022.

(CNR NO.MHGO01000409-2022)

State, PSO, Salekasa -Vs- Gajanan Bhagat + 4

COMMON ORDER BELOW EXH. 47 & 50.

(Passed on this 14th day of November, 2022)

Application Exh.47 is filed by applicant/accused No.3 Giravlal Natthulal Uprade, aged 44 years sent through Prison Authorities and application Exh.50 is filed by the learned Advocate Shri Upwanshi for accused. Both these applications are filed on the ground of illness of the applicant for grant of bail. The applicant has been arrested on 08/01/2022 by Police Station, Salekasa in Crime No. 05/2022 for alleged offence punishable under Sec. 302 r/w 34 of IPC and Sec.3(2)(v), 3(2)(5-a) of SC & ST (Prevention of Atrocities) Act.

2] Brief facts of the prosecution case is as under:

That, the deceased Sandip Manohar Dhamgaye, aged 28 years was having love affair with Harshlata daughter of applicant/accused Girwarlal Uprade since last 2-3 years. Prior to one year there was a settlement. On 07/01/2022 at about 5.30 p.m. he was returning from village Nimba on his motorcycle. The deceased being of Schedule Caste was not acceptable to the accused, hence on that day all the accused

way-layed the deceased Sandip and assaulted him with sticks and kicks and threw him in the field. He was thereafter taken to Rural Hospital. Initially he was found to have simple injuries but as complications developed he was referred to K.T.S., Hospital where he died. As per the post-mortem report the deceased had sustained laceration on the right kidney and died due to haemorrhage and shock as a result of injury to right kidney. The dying declaration of the deceased was recorded while he was hospitalized at the Rural Hospital, Salekasa. In the said dying declaration the deceased named accused Khushal Girawlal Uprade and applicant/accused Girawlal and two other persons who were not named.

3] Learned Advocate for the applicant submits that he confines his argument on the ground of ill-health. He relied on the medical record called by the Court filed on record at Exh.56 and Exh.61. He submits that as per the report of medical officer, Bhandara District Prison, the applicant is suffering from Poly-Arthirties along sever anemiya with complaint of generalized delitary. He is unable to walk or stand and needs support for standing and walking. He is seeking frequent from General Ward Bhandara and he is regular follow up. He is in special diet still the recover is not satisfactory. He needs further treatment at a super speciality under the guidance of Rhyumatologist and the said treatment

is not possible at Bhandara Jail and can be treated for specialize private hospital with a regular follow ups. He has also relied upon the documents issued by General Hospital, Bhandara which shows that the applicant was admitted on 13/08/2022 and was discharged on 19/08/2022. He also relied upon the other documents which shows that the applicant is treated from time to time in the hospital. He has prayed for grant of bail.

4] I.O. has filed reply at Exh. 51 and opposed the application on the ground that the offence is grievous. Prima facie case is made out against the applicant. However he has not commented on the medical ground. He has prayed for rejection of the application.

5] The learned DGP Shri Chandwani opposed the application by filing reply at Exh.52 on the ground that the offence is serious. They shared common intention and conspired to kill the deceased. There is sufficient evidence. He further submits that though there is report of the doctor that he needs specialist treatment and cannot stand and walk without support, application be rejected.

6] The application of the co-accused for grant of bail have already been rejected on merits. The involvement of the

applicant is of the similar nature. However, the medical report filed at Exh.56 & 61 called from the jail authority prima facie show that the applicant is suffering from various diseases which cannot be treated at jail hospital and govt. hospital and needs treatment at specialized center. They further reveal that the applicant is unable to stand or walk without support. The son of the applicant who is the co-accused is behind bar. The applicant is resident of Gondia District. Charge-sheet is filed. Trial may take some time and on medical ground he can be released on bail. Hence, I pass the following order.

ORDER

- 1] Application [Exh.47 & 50] are allowed.
- 2] The applicant/accused No.3 **Giravlal Natthulal Uprade** be released on his executing PR bond of Rs.25,000/- and furnish one surety in the like amount on the following conditions;
 - i] The applicant shall not threaten or influence the witnesses.
 - ii] The applicant shall attend the trial regularly.
- 3] Application is disposed of.

Gondia.
Dated: 14.11.2022.

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