

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

SESSIONS TRIAL NO. 71/2020.

(CNR: MHGO01000726-2020)

State Of Mah. -Vs- Ankit+3

ORDER BELOW EXH. 21.

(Passed on this 18th day of June, 2021)

This application by accused No. 3 Raju Ravindra Marbate who has been joined as accused along with other accused persons in connection with Crime No. 399/2019 registered at Ramnagar Police Station for the offences punishable under sections 302, 201, 364-A and 120-B of the Indian Penal Code, is for his release on bail under Section 439 of the Code of Criminal Procedure.

2. The facts giving rise to the filing of charge-sheet in short are as follows:-

Deceased Saurabh Moreshwar Katare a 20 years old boy left his house on 15.12.2019 at about 2:00 p.m. after he received phone call from some person. He left the house on the motor cycle. Since he did not return to his house till late at night, his uncle Komal Katare lodged missing report to Ramnagar Police Station which was registered as Gum Registration No. 42/2019. During the course of inquiry, the

informant Amol Pandurang Sonwane, PSI, Ramnagar Police Station investigated the calls received on the mobile phone of Saurabh Katare. After study of the calls received, PSI Mr. Sonwane found some involvement of accused Ankit Radheshyam Biranwar. After further study of the call details the connection of Chiteshwar Bisen, Gajendra Marbate and present applicant Raju Marbate were found. After interrogation of Ankit Biranware it was revealed that all the accused persons including present accused entered into a conspiracy to abduct deceased Saurabh Katare who was staying at MIET College for collecting ransom of Rs. 30,00,000/-. Investigating Officer further found that deceased Saurabh was assaulted on his head with a beer bottle by the present accused. All the accused placed him in the car. Thereafter, all the accused moved in the car along with Saurabh at different places namely Kamtha, Batana, Amgaon, Thana, Gidhadi, Goregaon, Mandodevi, etc. while Saurabh was initially in injured condition. When the accused found that his health was deteriorating, they therefore found it dangerous to keep Saurabh in the same condition and therefore, decided to eliminate him. The car was stopped near the bridge at Batana-Mundipar. Cellotape was wrapped around nose/face and legs of Saurabh. All the accused

strangled Saurabh and after ensuring that he was dead, a stone was tied around the dead body of Saurabh and his dead body was disposed-off by throwing it in Bag Nadi, Mundipar.

3. Learned advocate for the accused argued that the material collected during the course of investigation is not admissible in evidence. According to him, the whole FIR is based upon the statement given by some of the accused and as such it is not admissible in evidence. According to him, the evidence as per the prosecution is only circumstantial, but there is no strong circumstantial evidence in order to show the involvement of the present accused. Learned advocate for the accused referred to the alleged statement relevant under section 27 of the Indian Evidence Act by virtue of which the mobile handset was discovered at the instance of present accused. The learned advocate for the accused contends that the said statement cannot be considered in evidence and is inadmissible in evidence. According to him, the recording of the memorandum statement is based upon the version, which the investigating officer was already knowing while recording the FIR. According to him, the recovery of mobile handset at the instance of the accused is a tainted piece of evidence and cannot be relied on. According to the learned advocate for the accused, the conversation of one of the accused was

recorded and on perusal of transcript of the conversation, it can be seen that there is no material against the present accused to show that he was involved in the present incident. However, on the contrary, according to him Saurabh was assaulted with beer bottle by accused No. 1 and not by present accused. Learned advocate for the accused further submitted that there is absolutely no evidence on record to show that the present accused was part of any criminal conspiracy.

4. Learned DGP Mr. Chandwani on the other hand opposed the application. According to him, the allegations against accused are quite serious and circumstances are strong enough to show the involvement of the accused in conspiracy of kidnapping Saurabh for ransom and with further act of killing him in brutal manner. Learned DGP referred to the statement of witness Anil Pardhi recorded under section 164 of the Code of Criminal Procedure. According to him, the statement of this witness would show that he had seen all the accused together and he has seen some of the movements of the accused which are relevant circumstances in order to ultimately prove the chain of circumstances.

5. I have gone through statement of witnesses on record and also the statement of present accused which he

made during recovery of mobile handset of the deceased. The recovery of the mobile handset of the deceased at the instance of present accused is a strong circumstance that would support the prosecution story that the present accused was involved in the criminal conspiracy of kidnapping Saurabh and demanding ransom of Rs. 30,00,000/-. It would further show strong circumstances to implicate the present accused in killing the deceased and disposing off his dead body in Bag Nadi, Mundipar. The material on record would show strong circumstances pointing to the involvement of the present accused in commission of offence in the present case. There is reasonable apprehension that release of the accused may be a threat to witnesses. There is likelihood of tampering of evidence as suggested on behalf of the prosecution. Considering the above referred circumstances, I am not inclined to favourably consider the bail application of present accused. Hence, I proceed to pass the following order:-

ORDER

1. Bail application Exh. 21 stands rejected.

Gondia.
Dated:- 18.06.2021.

Sd/-
(U. B. Shukla)
District Judge-1 & ASJ, **Gondia.**