

Order below Exh. 12 in Session Case No.20/2024

01. This is bail application filed by accused no.1 namely Nana@Dyaneshwar and accused no.5 Kailas, under section **439** of the Code of Criminal Procedure, seeking bail in connection with the Crime No.0257/2023 registered with Paradh police Station, Tk. Bhokardan, Dist. Jalna, for the offences punishable under sections 143, 147, 148, 302, 307, 294, 323, 504, 506 r/w 149 of the Indian Penal Code.

Brief facts of the crime no.0257/2023 are as follows :-

02. The informant namely Sayyed Nadim bashir resides at Walsavangi Paradh at Jalna. The accused resides near the informant's house. Informant lodged the report stating that on 05/11/0223 at about 6.00 to 6.30 p.m. his children also children of his brother were bursting the crackers in front of his house, at that time accused Sonu and accused Kailas came there, asked him why the children are bursting the crackers and making noise. The accused abused the informant and the other accused also came with lathis, sticks, axe and rod in their hands and came on the person of informant. By

hearing the noise the brother of informant namely Nisar, Alim, Shaharukh and others came there. Accused Sonu gave blow of axe over the head of informant, accused Kailas gave blow of iron rod to brother of informant Jamil, so also accused Nana gave blow of iron rod over the head and on the private part of Jamil. Thereafter, the other accused gave kick and fists blows to them. Also assaulted by lathis and sticks. Accordingly informant lodged the report. Injured Jamil was admitted in the hospital. However, on 08/11/2023 he died during the treatment. Accordingly section 302 of IPC is added against the accused.

03. Learned APP filed say at Exh.42 and objected the application on the ground that the present accused along with the co-accused are prima-facie involved in the offence of serious nature. The present accused no.1 and 4 have assaulted to deceased Jamil by iron rod with intent to commit murder. Hence application be rejected.

04. Heard both the sides. The Learned advocate for the accused argued that both the accused are in MCR since 09/11/2023. Now the charge-sheet has been filed. After perusing the record, it appears that the offence u/s

302 of IPC is not prima-facie made out against the accused. The document of J.J.Plus hospital dated 06/11/2023 shows that the relatives of the deceased were not willing for the surgery of Jamil and they have not given the consent for the surgery. The co-accused are already released on bail. Therefore, the present accused are also be released on bail.

05. Perused the record of the case. It is specifically mentioned in the report that accused no.1 Dyaneshwar and accused no.5 Kailas gave blow of iron rod over the head of deceased Jamil.

06. The police paper filed along with the charge-sheet shows that accused no.1 [Nana@Dyaneshwar](#) and accused no.5 Kailas were armed with iron rod. The iron rod has been sized at the hands of accused no.1. The FIR shows the specific overact on the part of both these accused. The role of the present accused is different from the other co-accused.

07. Ld. Advocate for accused argued that the offence u/s 302 of IPC is not prima-facie made out. I have gone through the document of J.J. Plus hospital

dated 06/11/2023 which shows that the relatives of the deceased have not given consent for the surgery of Jamil. However, the provisional death certificate shows that the cause of death is “head injury”. The incident occurred on 05/11/2023 and during treatment Jamil died on 08/11/2023. As per the police papers, accused Kailas and accused Nana were assailants who have inflicted blow of iron rod on the head of victim Jamil. Therefore, considering the seriousness of the offence, it is not proper to release the accused on bail. Therefore, I proceed to pass following order :

Order

- (i) Criminal Bail Application of accused no.1 and 5 is hereby rejected.
- (ii) Inform to the Jail authority.

Sd/-

(Smt. B. S. Gare)

Ad-hoc District Judge-1 &
Additional Sessions Judge,

Jalna

Date: 14-03-2024

Certificate

I affirm that the contents of this PDF File are word to word as per original order.

Name of the Steno : Amol C. Darewar

Name of the Court : Ad-hoc District Court-1,
Jalna

Date of order : 14-03-2024

Date of PDF : 14-03-2024

Stenographer