

Sessions Case No. 02 /2016
(CNR-MHKO060000162016)

ORDER BELOW EXH. 19.

This is second application is u/s. 439 of Cr.P.C. for bail from C.R. No.59/2015 registered with Shirol Police Station of the offence punishable u/s. 302, 506, 34 of I.P.C.

2] Heard learned counsel for the applicant and learned A.P.P for the State. Perused the application and say Exh.22 and investigation papers.

3] The gist of prosecution allegations against the applicants/accused is that, on 02.09.2015 at about 16.00 a.m. to 16.15 hours on Choundeshwari Mill to Nandani road the accused due to previous enmity and civil dispute brutally assaulted Mahavir Devappa Mangave by kicks, blows and stone and committed his murder. About it son of deceased filed complaint against the accused. The accused are arrested on 2.9.2015 and since then the applicants are in custody. The accused have preferred this bail application on the ground of non commencement of trial.

4] The applicants claim grounds for bail that, since their arrested on 2.9.2015 they are in custody. Since their arrest 3 years have been elapsed. Muddemal and C.A. report is not yet produced before the court. The case is entangled due to laxities on the part of prosecution. So due to non starting of evidence the accused may be released on bail as since last 3 years the prosecution has not started its evidence. On these grounds applicants prayed to enlarge them on

bail.

5] In response to show cause notice the prosecution submitted say Exh.22 through A.P.P. and strongly objected to grant bail on the ground that, the offence is serious one. The applicants has brutally killed the deceased. The accused and witnesses are from same village. They will influence the evidence and will pressurize the witnesses. There is possibility of re-occurrence of similar offence if applicants are released on bail. On aforesaid grounds the State has strongly objected to release the applicant on bail.

6] I have gone through police papers on record. It reveals that in the investigation statements of witnesses are recorded. From the statements of witness and evidence on record prima facie involvement of accused reveals. From the evidence papers it appears that there are eye witnesses to the incident. On the basis of sufficient evidence against the accused the charge sheet came to be submitted. The muddemal is produced and charge is framed. Now the case is posted for evidence. Mere non commencing the trial and long period of detention of applicant in custody, is no ground to enlarge them on bail. So considering the nature of offence and prima facie evidence against the applicants, the applicants are not entitled to be enlarged on bail. In the result, I pass the following order :-

ORDER

Application stands rejected.

Dt. 13-03-2019.

Sd/-
(A.P. Kanade),
Addl. Sessions Judge,
Jaysingpur.