

MHKO060005352023

**ORDER PASSED BELOW EXH.3 IN
Sessions Case No.29/2023**

This is an application filed by accused Vaibhav Bhikaji Koravi for bail under section 439 of Criminal Procedure Code in Crime No.93/2023 (S.C.No.29/2023) under section 302, 120(b), 504 read with 34 of the Indian Penal Code, 1860, registered at police station, Shahapur.

2. Facts in brief are as under :-

Deceased Rohan @ Tejas was the brother of complainant Ganesh Dangare. Complainant, Rohan, his parents and younger brother Aniket were residing together. Rohan was running pan shop at Yadrav Fata. On 28-03-2023, there was yatra of Mhasoba and therefore, complainant, his father, friends Pravin and Pranav had come to help Rohan. Accused Ashlesh @ Akhilesh was the friend of Rohan. Rohan had love affair with the sister of accused Ashlesh. Ashlesh had not consented for the said affair and therefore, dispute was settled prior to eight months.

3] It is further alleged that on 28-03-2023, at about 10.15 pm., complainant, his father and friends Pravin and Pranav were in the pan shop of Rohan. At that time, Rohan received phone call. Rohan told to his father that his friend Ashlesh made him phone call and he will come soon. Therefore, Rohan @ Tejas went. Complainant and his friends followed to Rohan. In front of Ramesh Vada hotel, they saw that altercation was going on between Rohan and Ashlesh. Thereafter, there was scuffle between them. When Pranav was intervening their quarrel, one unknown person (present accused)

came there. He was having koyata. He assaulted near left ear of Rohan. Due to this, Rohan fell on the ground. Then both the accused ran away from the spot and Rohan was admitted in IGM hospital, Ichalkaranji and during treatment, he died. Complainant lodged report in the police station.

4] On the report, crime is registered. API A.B.Patil took up the same for investigation. During investigation, he prepared spot panchanama and recorded statements of witnesses. He arrested the accused. The weapon i.e. koyata was seized as per the memorandum of present accused. Muddemal was sent to FSL, Kolhapur. After completion of investigation, chargesheet is filed against accused.

5] The learned Judicial Magistrate, First Class, Jaysingpur committed the case for trial to this court.

6] Mr. S.Y.Mane, advocate for accused has submitted that accused No.1 is released on bail. Hence, present accused is entitled for bail on the principle of parity. According to him, the weapon is seized. There was no motive/intention on the part of accused to commit the offence. At the most, the incident is occurred at heat of the moment. No proper test identification parade is conducted. Accused has no concern with alleged crime. The antecedents of accused are clear and he is ready to abide by the conditions imposed by the court. He prayed to release the accused on bail.

7] Mr. U.M.Kulkarni, learned APP for state has submitted that offence is serious. He has drawn my attention towards the statements of witnesses. According to him, witnesses Pranav and Pravin have specifically stated that accused assaulted to the Rohan by koyata. Thus, there is direct evidence against accused. If the accused is released on bail, he will pressurize the witnesses. He prayed to reject

the application.

8] Here in the present case, investigation is completed and chargesheet is filed. It is true that accused No.1 is released on bail. The prosecution story is that deceased had love affair with the sister of accused No.1. Accused No.1 was friend of deceased. Accused No.1 had no consent for the same. But their dispute was resolved. The alleged incident occurred on 28-03-2023. Complainant, Pranav and Pravin have stated that they saw that altercation was going on between Rohan and accused No.1 Ashlesh. At that time, accused No.2 came there and he assaulted to Rohan by koyata. The role of accused No.1 and present accused is different and therefore, principle of parity is not applicable to the case in hand.

9] I have perused the chargesheet. Here in the present case, it is true that test identification parade is not conducted. However, complainant and witnesses Pravin and Pranav have stated that one unknown person came and assaulted to Rohan. It is to be noted that during the investigation, the memorandum of present accused was recorded and police recovered koyata under panchanama. Thus, there is direct evidence against the accused. Offence is serious. If the accused is released on bail then there is possibility that he will pressurize the complainant and prosecution witnesses. Hence, considering the nature of offence, its grievousness and the role of accused, I find that accused is not entitled for bail. Therefore, following order;

: ORDER :

Application is rejected.

Jaysingpur.
Dt.:02-02-2024.

(G.B. Gurao)
Addl. Sessions Judge, Jaysingpur.

