

MHND010023752020



ORDER BELOW EXH. 113 & 114
State Vs Sushil & Ors.

1. Perused the applications and say of learned APP at Exh. 149. Heard both sides. It is the contention of the applicants that one Manjusha Chavan, the sister of deceased lodged report on 3.8.2020 making allegation that her brother Vicky Chavan was going by bike with his two friends from Nanded to Mudkhed and at that time, accused persons came by Scorpio jeep, gave dash to the bike of Vicky Chavan and he fell down. Thereafter, they assaulted him by sword and pistol, put his dead body in Scorpio Jeep and thrown the same near Godavari river bridge in Hasapur area. Accordingly, the offences punishable under section 302, 120-B, 147, 148, 149 of the Indian Penal Code and under section 3/25 and 4/25 of Arms Act were registered with Police Station, Nanded vide crime No.212/2021. The applicants contended that they are innocent and their names are not mentioned in FIR. No act or overt act was attributed to them in FIR. They are arrested on 28.7.2021 and 20.10.2020 and since then they are in jail. The investigation is completed. The co-accused were released by Hon'ble High Court, hence ground of parity is available to them. They are permanent resident of Nanded having immovable property. They are ready to abide by the terms and conditions of the bail. Hence, they may be released on bail.

2. The learned APP submits that the applicants committed

brutal murder of deceased Vicky Chavan by using deadly weapons i.e. sword, pistol and dagger, those weapons recovered from them on the basis of discovery statement made by them. The applicants are habitual offender, not having good antecedents. They likely to tamper the witnesses. Hence, the application may be rejected.

3 In the instant case only allegation against the applicants is that they are involved in murder of deceased Vicky Chavan, however their names are not mentioned in FIR. There is no direct evidence against them regarding their participation in the offence. Similarly, the police recovered one sword from the applicant Somesh Katte from his custody on the basis of disclosure statement under section 27 of Evidence Act. There is no recovery made from the applicants Tushar Mane and Ram Jadhav. Thus, only evidence against the applicant Somesh Katte is in the nature of memorandum, which is admissible to the extent of only recovery of sword and the remaining contents are inadmissible in evidence. There is judgment of the Hon'ble High Court in Bail Application No. 218/2021 (Mohammad Tausif Vs. State) decided on 13.10.2021 and the judgment in Bail Application No. 1324 of 2021 (Pradeep Vs. State) decided on 22.11.2021 cited by the learned counsel for the applicant wherein the same view was taken while releasing the co-accused on the same ground which are existing against the present applicants. Hence, principle of parity is available to them. Therefore, in such circumstances the applicants are entitled for bail. In the result, I pass the following order.

ORDER

1. Applications at Exh-113 & 114 are hereby allowed.

2. The applicant No.1 Somesh Suresh Katte, applicant No.2 Tushar Madhukar Mane and applicant No.3 Ram Sadashiv Jadhav are hereby released on bail on furnishing PR bond of Rs.30,000/- each with one solvent surety in the like amount subject to conditions.

1. They shall not tamper with the evidence.
2. They shall make themselves available and attend all court dates.
3. They shall not directly or indirectly make any inducement, threat or promise to the witnesses.
4. They shall not commit any offence against the informant.
5. Violation of any of the conditions imposed shall amount to cancellation of bail forthwith.

(K.N.Gautam)

Date : 24-12-2021.

Additional Sessions Judge-1,Nanded.

CERTIFICATE

I affirm that the contents of this P.D.F. file order are same word to word, as per the original order.

1. Name of the Stenographer:- Mrs. A.S.Khire, Steno Grade-I
2. Court Name :- Court of Addl.Sessions Judge-2,
Nanded
3. Date of :- 24-12-2021
Order signed by the
Presiding Officer on :- 24-12-2021
4. Order uploaded on :- 24-12-2021

