

MHND010032852023

IN THE COURT OF ADDITIONAL SESSIONSJUDGE-2 , NANDEDSESSIONS CASE NO. 212/2023State -Vs- Jitesh and anr.**ORDER BELOW Exh. 19**

Applicant /Accused No. 2 Rahul Vyenkatrao Kalyane in Crime registration No. 162/2023 (Sessions Case No. 212/2023) registered with Mudkhed Police Station on 03.08.2023 at the instance of Ramdas Narayan Puyad resident of Punegaon Tq. & Dist. Nanded and has been arrested on 03.08.2023 for alleged commission of offences punishable under sections 302, 326, 324, 435, 504 and 506, 201 read with section 34 of the Indian Penal code and under section 4 punishable under section 25 of the Arms Act.

2. The applicant/accused No.2 by this application has contended that, he is innocent and has not committed any offence. Moreover, if the report is perused from the same it can be seen that, the applicant was not having any previous dispute with the informant or deceased. Also, from the perusal of the statement of witnesses, it can be seen that, no role is attributed to the present applicant. He is in MCR since 09.08.2023. He is the only bread earner of his family. Moreover, his earlier bail application is decided without hearing arguments of the advocate for applicant/accused No.2. So, it is prayed that applicant/accused No.2 be released on bail.

3. The Ld. A.PP has filed say cum written argument on this application vide Exh. 21. She has contended that, prima facie there is sufficient material on record to show involvement of this accused in the crime. The offence charged is serious in nature. Moreover, previous bail

application is decided on merit and rejected. So, there is no change in circumstances to file this bail application. Hence, it is prayed that application be rejected.

4. Heard Ld. advocate Mr. Hatkar for the applicant and Ld. A.P.P. Smt. Batulla for State. They have argued as per the line of their contention in the application and say respectively.

5. Considered the rival submissions. Gone through the report. In the report, it is alleged that, on 02.08.2023 at about 10.00 p.m. due to the previous dispute between the deceased and accused. Accused Jitesh Dhage and Rahul Kalyne assaulted victim Shivraj with sword and knife respectively on his chest, hand, etc and committed his murder. When the informant tried to rescue victim he was also assaulted by accused and thereafter they fled away from the spot. Hence, the report.

6. The record shows that, this is the successive bail application filed by applicant/accused No. 2 Rahul. So, the applicant/accused No. 2 has to show that, what is the change in circumstance to file this successive bail application after rejection of the earlier bail application Exh. 14. The only change in circumstances shown by the applicant/accused No. 2 is that the previous application was decided without hearing the submissions of the advocate. However, it is pertinent to note that, from perusal of the order Exh. 14 and roznama dated 22.02.2024 it can be seen that, the advocate for applicant/accused were heard before passing the order. So, the said contention of the applicant/accused No. 2 is not justified.

7. The record and statement of witnesses shows that, prima facie there is sufficient material on record to show direct involvement of this applicant/accused No. 2 in the crime. In the report, the informant who is the eye witness as well as injured has made specific allegations against the present applicant/accused No. 2 for assaulting Shivraj with knife and also for assaulting him and other eye witnesses Amol. Not only the same the

statement of eye witness Amol prima facie corroborates the statement of informant. Not only the same admittedly informant as well as eye witness Amol has sustained injuries when they tried to rescue Shivraj.

8. The police papers on record also shows that, the weapon used in the offence is recovered at the instance of co-accused. Moreover, the clothes worn by the present applicant/accused No. 2 at the time of commission of the offence are also seized and are forwarded to C.A. The postmortem report on record shows that, victim Shivraj has sustained as many as 31 injuries in the incident resulting into his death. So, it can be prima facie seen that, the present applicant/accused No. 2 and co-accused have committed brutal murder of Shivraj.

9. In view of above discussion, I held that there is prima facie sufficient direct evidence on record to show that involvement of the applicant/accused No. 2 in the crime. Also, this successive bail application is filed without change in circumstances, the same is not tenable. So, considering the same and gravity of the offence as well as punishment provided for the same which is death sentence or imprisonment of life, applicant/accused No. 2 cannot be release on bail. So, I proceed to pass following order.

ORDER

The application is rejected.

sd/-

(R.M. Shinde)

Additional Sessions Judge-2
Nanded.

Date : 21.10.2024

CERTIFICATE

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

Name of the Stenographer : Muley S.M.

Court Name : Additional Sessions Judge -2, Nanded

Date : 21.10.2024

Judgment/order signed by the

Presiding Officer On :- 21.10.2024

Judgment/order uploaded on :-22.10.2024