

IN THE COURT OF ADDL.SESIONS JUDGE AT BHOKAR
DISTRICT NANDED

MHND110005132023



Sessions Case No.24 /2023
The State versus Pradeep and another
Crime No.136/2023, P.S.Umri,
Offence Pun.u/s. 302, 201 r/w/s 34 of IPC

ORDER BELOW EXH.19

01] This is second bail application under section 439 of Code of Criminal Procedure for grant of bail by applicant namely Pradeep Sanjay Bhandare.

02] APP by filing her reply overleaf the application has strongly opposed the application.

03] Heard learned counsel for accused and learned APP for the State. Perused the application, reply and the case diary. It is mainly the submission of learned counsel for the accused that since the investigation is completed, it is a fit case to grant bail to the accused. It is his further submission that the statements of witnesses have been recorded by the police after 72 hours of recovery of dead body and the same creates doubt in prosecution story. It is his further submission that the informant being a Police Patil was not expected to go to the spot where the deadbody was

concealed in a pit and as he went there the same amounts to tampering with evidence and consequently, applicant is entitled to bail. It is his further submission that since the other accused is released on bail as per the order of Hon'ble High Court, the present accused is also entitled to bail.

04] Per contra, it is the submission of learned APP that the present case is a case of Honour killing and there is sufficient evidence against accused and therefore, the accused cannot be released on bail.

05] It is well settled that while considering the grant or refusal of bail the gravity of offence and severity of punishment needs to be considered. The offence punishable under section 302 of IPC is grave in nature and is punishable with death or imprisonment for life. The allegations levelled in FIR is that the informant, who is Police Patil, received a secrete information that accused Nagorao Laxman Waghmare and his two grand sons namely Pradip Sanjay Bhandare and Sainath Sanjay Bhandare killed Sanjay Khandu Bhandare and concealed his body in the field of Nagorao Laxman Waghmare as Sanjay Khandu Bhandare used to ill-treat his wife. The statement of Vishwambhar Dashrath Jadhav recorded by the police clearly shows that deceased Sanjay Khandu Bhandare was his son-in-law and used to reside with him. It further shows that he saw the present applicant, accused Nagorao and one Sainath beating and abusing deceased Sanjay Bhandare on 28-05-2023 at about 9.00 pm. It further shows that he saw present applicant Pradip inflicting a blow upon head of deceased Sanjay Bhandare by iron pipe and because of said blow deceased Sanjay sustained bleeding head injury and fell on the ground. It further shows that he saw accused Sainath giving blow by iron pipe on

legs of deceased. It further shows that he alongwith other persons tried to rescue the deceased and at that time present applicant, accused Nagorao and accused Sainath told them that deceased was demanding money towards canal and partition of agricultural land and on that count harassing his wife daily by consuming liquor. It further shows that thereafter, all accused persons went inside the house and deceased Sanjay Bhandare was lying injured in front of their house on road. The statement further shows that he saw deceased Sanjay moving his body for some time and he heard deceased Sanjay saying "Tumhala dakhvito" and after some time stopped talking and after half an hour present applicant Pradip and Sainath came out of the house and asked deceased Sanjay to wake up, but Sanjay did not wake up and thereafter, present applicant Pradip and Sainath tied hands and legs of deceased Sanjay and took him inside the house and turned of the lights of the house and locked the gate.

06] The allegations levelled in the statement of Vishwambhar Jadhav clearly shows that the present accused as well as the co-accused had motive to kill deceased Sanjay Bhandare as he was demanding partition as well as the money towards compensation of canal and was harassing his wife, who is the mother of present applicant. The statement of Vishwambhar Jadhav clearly shows that he is an eye witness to the crime and he saw the accused persons killing deceased Sanjay Bhandare and moving his body for the purpose of concealing with instruments of digging a pit. Therefore, I am not convinced with the submission of learned Counsel for the applicant that the applicant is innocent.

07] So far as the submission of learned Counsel for the accused regarding tampering of evidence is concerned, I would like to point out

that there is no substance in the submission of learned Counsel for applicant simply for the reason that the police in presence of panch witnesses have recovered the dead-body from a pit by drawing a panchnama on 30-05-2023.

08] So far as the submission regarding delay in recording statement of witnesses is concerned, I would like to point out that said question can be decided only in a trial. Considering the gravity of offence and severity of punishment, accused cannot be released on bail.

09] So far as the submission of learned counsel for the applicant regarding the entitlement of present applicant to bail on the ground of parity is concerned, I am not convinced with the said submission for more than one reason. Firstly, the ground of parity can only be raised before the same court. Secondly, the role played by the accused persons in the commission of offence must be the same in order to claim the ground of parity. Thirdly, it can be seen that the other accused who has been released on bail by the Hon'ble High Court is appearing to be of old aged person having age more than 65 years.

10] So far as the submission of learned counsel for the applicant regarding the entitlement of applicant to bail on filing of the charge-sheet is concerned, I would like to point out that there is no substance in this submission as filing of the charge-sheet does not in any manner lessen the allegations made by the prosecution, on the contrary, filing of the charge-sheet establishes that after due investigation, the investigating agency, having found materials, has placed the charge-sheet for trial of the accused persons. Considering the gravity of offence and severity of

punishment and the role played by the applicant in the present crime, he is not entitled to bail. I therefore, proceed to pass following order.

ORDER

Application Exh.19 is rejected.

Date : 10-01-2024

Sd/-
(R.D.Gadwe)
Addl. Sessions Judge, Bhokar.

CERTIFICATE

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

Name of the Stenographer : P.S.Malve, Steno Grade-I

Court Name : Adhoc District Judge-1 & ASJ Bhokar

Date : 10-01-2024

Order signed by the

Presiding Officer on : 10-01-2024

Order uploaded on : 11-01-2024