

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

MHND110006542021



Sessions Case No. 44/2021
The State Versus Manohar
Crime No. 189/2021, offence pun.u/s
302 and 201 of IPC, registered at
police station, Umri.

ORDER BELOW EXH.03

01] This is a first application under section 439 of Code of Criminal Procedure for grant of regular bail by accused in crime No. 189/2021 for the offences punishable under sections 302, 201 of the Indian Penal Code registered at police station, Umri.

02] The learned APP has opposed the application by filing his reply overleaf the application. It is his contention that the offence is serious in nature and if accused is released on bail he may tamper with prosecution witnesses and therefore, accused may not be released on bail.

03] Heard learned APP for the State and advocate Shri S.V.Kadam for accused. Perused the application, reply and record of the case. The allegations against the accused is that he took the

deceased Gautam in his auto at Ijjatgaon-Bardi shivar and murdered him by pushing him in Godavari river by assuring him of refund of Rs. 60,000/- at his village. It is the submission of learned counsel for the accused that there is no eye witness to support the prosecution case and therefore, the accused needs to be released on bail. It is his further submission that merely the accused was found to be with the deceased, it cannot be said that the accused committed murder of the deceased. It is his further submission that merely on the basis of CDR report the accused cannot be presumed to be guilty of murder of the deceased. It is his further submission that there is no evidence against the accused and therefore, the accused needs to be released on bail. It is his further submission that the investigation officer has prepared a false memorandum under section 27 of Evidence Act and falsely shown the alleged recovery at the instance of the accused and therefore the accused is entitled to be released on bail. It is his further submission that the accused is karta of his family and if he is detained behind bars till the conclusion of trial, his family members may starve and therefore, he needs to be released on bail.

04] On perusal of charge sheet it appears that initially a missing report was filed. The dead-body of deceased was found on 03-08-2021. Thereafter, the informant got information from Mr.Sunil Dashrath Waghmare, the friend of deceased, that the accused obtained Rs. 60,000/- as hand loan from deceased Gautam and the accused took the deceased in his auto at about 4.00 '0 clock on 30-

07-2021 by assuring him of refund of said amount at his village. On 01-09-2021 the informant gave such statement to the police and accordingly on 02-09-2021 an offences punishable under sections 302 and 201 of IPC came to have been registered. There is memorandum panchanama under section 27 of Evidence Act, wherein the accused agreed to show the spot from where he pushed the deceased in river. Accordingly, as per memorandum he took the police and panchas to the spot, where police also took the photograph of the accused regarding to such visit to the spot and also police recorded the discovery panchanama. It is the submission of the learned counsel for the accused that this memorandum panchanama and discovery panchanama is false and no reliance can be placed on it. I find no substance in the submission as the falsity or otherwise of the evidence can be considered at the conclusion of trial and trial is yet to take place. There is statement of Mr. Sunil Dashrath Waghmare, who had lastly talked with the deceased on 30-07-2021. According to this statement, the deceased told the witness that he was going to Naigaon as the accused Manohar promised to refund Rs. 60,000/- to him and at that time the accused was also with the deceased. Thus, there is strong circumstantial evidence on record. The offence is serious in nature and is punishable with death or imprisonment for life. Therefore, the accused cannot be released on bail. I therefore, proceed to pass following order.

4 Order below Exh.03 in Sessions Case No. 44/2021

ORDER

Application Exh.03 is hereby rejected.

Date : 14-01-2022

(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-1

Court Name : Adhoc District Judge-1 & ASJ Bhokar

Date : 14-01-2022

Order signed by the

Presiding Officer on : 14-01-2022

Order uploaded on : 14-01-2022

-