

IN THE COURT OF ADDITIONAL SESSIONS JUDGE, NAGPUR

Applicant :- Akash S/o. Shantaram Sonekar,

--VS.--

Non-applicant :- State of Maharashtra,
P.S. Khaperkheda.

Order below Exh.4

(Passed on 15th day of November, 2017)

1] This is the application for regular bail under Section 439 of Code of Criminal Procedure in Crime No. 267/2017 (S.T. No. 357/2017) for the offence punishable under Section 302, 34 of Indian Penal Code registered with P. S., Khaperkheda, Tahsil Saoner, District Nagpur.

2] Heard both sides. Perused petition and reply.

3] Prosecution story briefly stated asunder:

On 29.05.2017 at about 5.30 p.m., the applicant/accused came at the house of the complainant and took her son by name Lakhan on their motorcycles and went away. After some time the son of the complainant by name Lakhan returned alone on his motorcycle. While he was sustained some injuries on his face as well as hands and when the complainant and her mother asked him about the injuries, he told her that the applicant/accused assaulted him with small knife. On same day the applicant/accused came at her home at about 7.30 p.m. and

again took her son by name Lakhan on motorcycle, proceeded towards Chincholi, Khaperkheda Road and assaulted him with knife and other weapons and killed him. Hence the above offence is registered against the applicant/ accused.

4] Counsel for the defence argued that the applicant/ accused has no any concern with the alleged offence. He is falsely implicated in this crime. It is further argued that there are major differences in the complaint as well as postmortem report. It is further argued that the complainant stated in her report taken away her deceased son namely Lakhan Giri at 7.30 p.m., on 29.05.2017 by co-accused Suraj Kamble at the behest of the applicant/ accused and a blade (cutter) was seized. But the postmortem report reveals cause of death is head injury. So also a stick is seized in the present case. The applicant/ accused is not author of cause of death of deceased. So praying to release the applicant / accused on bail.

5] Learned APP strongly opposed the bail application and argued that the nature of the offence is very serious. The applicant and other co-accused have assaulted the deceased with dangerous weapon and caused his death. If the applicant released on bail there is more possibility of tampering of prosecution witnesses.

6] In order to decide bail application necessary requirements which needs consideration as per settled law are as under-

- i] Nature and seriousness of the offence;
- ii] The character of the offence;
- iii] Circumstances peculiar of the accused;
- iv] Reasonable possibility of the presence of the accused not being secured at the trial;
- v] Reasonable apprehension of the witnesses being tampered with;
- vi] Larger interest of the public or the state.
- vii] Similar other considerations which arise when the Court is asked to admit the accused to bail in non-bailable offence.

7] Having regard above all facts and circumstances and after carefully gone through the entire record, it reveals that the applicant/ accused and his friends took the deceased on his motorcycle towards Chincholi, Khaperheda road and committed murder of deceased. The nature of the offence is very serious. If the applicant/ accused is released on bail there is more possibility of tampering of prosecution witnesses. Hence, I am not inclined to release the applicant/ accused on bail. Hence, I proceed to pass the following order-

ORDER

The bail application of applicant **Akash S/o. Shantaram Sonekar** (Exh.4) is hereby rejected.

Sd/-

N A G P U R.

Dt :15.11.2017

(G.P. Shirsat)

Ad-hoc District Judge-1 &
Additional Sessions Judge, Nagpur.

C E R T I F I C A T E

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

Name of Steno : Smt. V. S. Boharapi,
Court Name : G. P. Shirsat, Ad-hoc D.J.-1,
Nagpur.