

S. C. No.97/2022
(C.R.No.390/2021 Panchavati
Police Station.)
State Vs. Prashant Kachru Pawar
CNR No.MHNS010008342022

ORDER BELOW EXH. 3

1. Perused application and say. Heard ld. advocate for the accused and ld. APP for the State.
2. The present application has been filed by accused Prashant Kachru Pawar (Hereinafter referred to as 'the applicant' for the sake of brevity) for bail under Section 439 of the Cr.P.C. He has been charged with the offence punishable under Sections 304 of the Indian Penal Code.
3. It has been contended on behalf of the applicant that the applicant, his brother and the mother i.e. the deceased live together in the quarter/house allotted to his younger brother on 10/12/2021 at about 03:00 a.m. the applicant returned home late at night in an intoxicated condition. His mother scolded him and refused to let him inside the house. There was an altercation between them and the applicant pushed her aside. His mother dashed against the cement pillar adjoining the iron gate at the entrance of the building and sustained bleeding injuries above her left eyebrow and behind her ear. As the accused was in intoxicated condition, he got afraid, took her inside the house, laid her on the bedding and put a Shawl on her. He

was under the impression that his mother had not sustained severe injuries. As he was under the influence of liquor he felt too asleep. On the next morning he found his mother motionless. It is further contended that the accused has not committed any offence. There is no evidence against him and Section 304 IPC is not attracted. He had opportunity to escape however, he himself approached the police. He has no criminal antecedents. The trial will take a long time. Keeping the accused behind the bars will amount to pre-trial punishment. He is ready to abide by all the conditions imposed by the Court. It is prayed that he may be released on bail.

4. The say of the I.O. and ld. APP was called for. The I.O. has filed his say alongwith pursis at Exh.4. He has opposed the application on the ground that the accused is addicted to liquor. His mother sustained injuries on her head as she was pushed by the accused. Instead of taking her to the hospital, he made her sleep inside the house. His brother has threat to his life. The applicant is a habitual offender. The I.O. has mentioned various offences registered against him from 2007 to 2018.

5. Ld. APP has strongly opposed the application on the ground that the offence is very serious in nature. If released on bail, he may pressurised the witnesses. He may abscond or may tamper with the evidence. He prayed that the application may be rejected.

6. Ld. advocate for the applicant argued that ingredients

necessary to constitute the offence punishable under Section 304 of the Indian Penal Code have not been made out. The prosecution case itself is that the accused was in an intoxicated condition at the time of the incident, he pushed his mother, she dashed against a cement pole, sustained injuries and unfortunately lost her life. There is nothing in the charge-sheet or in the statements of the witnesses to show that the accused intended to cause her death. It was only an accident. The accused did not realize the seriousness of the injury as he was intoxicated. The accused had every opportunity to flee. However, he himself approached the police. The accused is in jail since a long time. The trial may take some time to complete. Keeping him in jail will amount to pre-trial conviction. He argued that the applicant may be released on bail.

7. Ld. APP argued in consonance with the say filed by himself and the I.O. He submitted that the offence is very serious in nature. Previously also many offences were registered against him. If released on bail, he may pressurise the witnesses. He may abscond or may tamper with the evidence. He argued that the application may be rejected.

8. On perusal of the FIR, statements of the witnesses and material before the Court, it can be seen that at the time of the incident, the accused came home in an intoxicated condition, he was scolded and slapped by his mother for his addiction to liquor. Out of anger, he pushed her, she dashed against the cement pole near the

gate of the building and sustained injuries on her head. As the applicant was in an intoxicated condition, he did not realize the seriousness of the injuries and laid her on the bedding in the house. As he was under the influence of liquor, he too fell asleep. The next morning, he found his mother motionless. He approached the police and subsequently the police machinery was set in motion. All the witnesses have also stated the same before the police. At present there is no material before the Court to show that the accused had the intention to cause his mother's death or the knowledge that he would cause such bodily injury as is likely to cause death. Though, this is not the appropriate stage to discuss as to whether the offence under Section 304 of Indian Penal Code is made out, what needs to be considered is as to whether it is necessary to keep the applicant incarcerated. The applicant was arrested on 10/12/2021, he was remanded to magisterial custody on 13/12/2021 and is still in jail. Ld. advocate for the applicant has moved an application for discharge. The decision on the application or the trial may take a long time. Most of the witnesses are government servants. It does not appear likely that the applicant may try to influence them. As regards the possibility of him absconding is concerned, imposing appropriate conditions will serve the purpose. At present, it appears that no purpose will be served by keeping accused incarcerated indefinitely. Hence, order :-

ORDER

1 The application is allowed.

2. The applicant i.e. accused Prashant Kachru Pawar be released on bail on executing P.B. and S.B. of Rs.15,000/- in Sessions Case No.97/2022 (C.R.No.I-390/2021 registered with Panchavati Police Station for the offence punishable under Section 304 of the Indian Penal Code.
3. He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as dissuade that person from disclosing such facts to the Court or to any police officer.
4. He shall furnish his identity proof, proof of his current and permanent residence and mobile number/s.
5. He shall inform the Court if he changes his address.
6. He shall not leave India without the prior permission of the Court.

(Dictated and pronounced in open Court)

Date : 26/04/2022
Place: Nashik

(S.N.Bhalerao)
Addl. Sessions Judge, Nashik