

Sessions Case No. 27 of 2023.

The State

Vs.

1. Sharad Vasant Shinde

Order Below Exh.24.

(Passed on 24 May, 2024)

1. The applicant / accused **No.1** Sharad Vasant Shinde has preferred present application, after filing of charge-sheet, under Section 439 of the Criminal Procedure Code for grant of bail in Crime No. 35/2023 registered at Saikheda Police Station against them for the offences punishable under Sections 302, 201 read with Section 34 of the Indian Penal Code (Sessions Case No.27 of 2023).

2. It is the case of the prosecution that informant Ashpak Ibrahim Shakh lodged complaint at Saikhdea police station stating therein that on 11/02/2023 stating therein that he is Member of Grampanchayat, Saikheda. On 11/02/2023 in the evening at about 05.35 p.m., two boys came to his house and informed him that one gunny bag is flouting in a Godavari river behind Ganganagar Devi Temple. Therefore, the informant rushed towards the spot of incident. He saw blue coloured jeans pant in the said gunny bag. Therefore, he informed Saikheda police station. Police came to the spot of incident and the said gunny bag was removed from the river. Police found two pieces of body of a male kept in two separate gunny bags, in the said gunny bags, head of male body was kept in one gunny bag and other part of body was kept in another gunny bag.

Approximate age of the male body was 28 to 30 years. The informant also described clothes on the person of the said body and other details. On the basis of above-said complaint, above-said crime came to be registered against an unknown person. During the investigation, it was revealed that the said body was of one Hitesh. He sold his mobile to Sharad Shinde and again take back the same and abused Sharad Shinde under influence of liquor. On that count, Alim Latif Shaikh gave blow of iron rod on the head of deceased Hitesh and accused Sharad Shinde cut his head with the help of axe and killed him. Thereafter, they called owner of the agricultural land Jagdish Bhaskar Sangamnere, Sandip Bhaskar Sangamnere and Yogesh Jagdish Sangamnere and with the help of them, they kept pieces of body of Hitesh in gunny bag and carried the same in Swift Car owned by Jagdish Sangamnere and had thrown the same in Godavari river near Saikheda. After completing the investigation, charge-sheet has been filed against the accused in the Court.

3. Learned Advocates for the accused / applicant vehemently submitted that allegations against present accused is false. There is no evidence at all against him. He is implicated in the crime merely on the basis of confessional statement of accused No.3. There is no eye-witness to the incident. Three weapons are seized during the investigation but as per weapon examination report dated 02/03/2023 only one weapon has been examined. There is no cogent evidence against present accused. Investigation of the crime is over, charge-sheet has been field against the accused in the Court.

The accused has no criminal antecedents. His further detention behind the bars will amount to pre-trial conviction. He is ready to abide conditions of bail. Therefore, he prayed to grant bail to the accused.

4. On the other hand, learned APP resisted the application on the ground that the accused has committed a serious crime. Capital Punishment is provided for the offence punishable under Section 302 of I.P.C. Though there is no eye-witness to the incident, case of the prosecution rest on circumstantial evidence. All the circumstances shows involvement of the present accused in the crime. The accused may tamper with the prosecution evidence and may abscond, if released on bail. Therefore, he prayed to reject the application.

5. Upon hearing the learned Advocates for accused, learned APP and on perusal of charge-sheet, it appears that the alleged offence is of very serious nature. From the perusal of F.I.R. and statements of witnesses, it appears that though there is no eye-witness to the incident, the prosecution has made out strong prima facie case against the present applicant / accused No.1. It is the case of the prosecution that deceased Hitesh sold his mobile to Sharad Shinde and again take back the same and abused Sharad Shinde under influence of liquor. On that count, Alim Latif Shaikh gave blow of iron rod on the head of deceased Hitesh and accused Sharad Shinde cut his head with the help of axe and killed him. Thereafter, accused called co-accused Nos. 3 to 5 and caused disappeared the

evidence. They carried dead body of Hitesh in Maruti Swift Car owned by Jagdish Sangamner. Police have seized said car and also seized the weapon at the instance of accused / applicant, which was used by him to commit the crime. Present accused / applicant has strong motive to kill the deceased. Police have seized CCTV Footage from various places from where the accused carried the dead body in Maruti Car. Present accused / applicant not only murdered the deceased but after killing him, he cut head of the deceased. Therefore, it appears that the accused / applicant has committed heinous crime.

6. Therefore, prima facie it appears that prosecution has proved homicidal death of Hitesh. Axe and gunny bag used for murder and throwing the dead body in the river are seized at the instance of present applicant / accused. Mobile location and CDR of mobile of accused persons and deceased is also produced on record. All these evidence shows prima facie involvement of the accused in the crime.

7. Under these circumstances, there is substance in the argument of learned A.P.P. that strong prima facie case has been made out against the accused. The accused may tamper with the prosecution witnesses if released on bail. Prima facie it appears that the accused has committed serious crime of murder. Capital punishment is provided for the alleged offence punishable under Sec. 302 of I.P.C. At this juncture, it cannot be said that there was no

motive or intention of the accused to kill deceased Hitesh.

8. A feeling would gain ground in the citizenry that persons like applicant can commit the most outrageous acts and yet would be dealt softly by Courts. That indeed would be distressing. Larger the most interest of the society is also to be considered while deciding such applications. I, therefore, find that application is devoid of merits. Considering the nature of offence, the applicant / accused is not entitled to be enlarged on bail. In the result, I pass the following order.

ORDER

- 1) Application is rejected.

Date : 24/05/2024.

(A.V. Gujarathi)
Additional Sessions Judge,
Niphad.