

**Order below Exh.31 in Sessions Case No. 48/2018.**

- 1) The applicant/accused No.1 is seeking regular bail through this application.
- 2) I have heard learned counsel for applicant/accused and also heard the ld. APP and ld. counsel for original complainant and perused the charge-sheet.
- 3) The applicant is charge-sheeted before this Court for the offences punishable under Sections 302, 201, 120-B of IPC with allegation that he committed murder of deceased Sahebrao Champalal Jat who was husband of accused No.5. Case of the prosecution is such that, present applicant and accused No. 5 had illicit relations, due to which the deceased used to raise objection and to abuse accused No.5 being his wife. Hence, the accused No. 5 and this applicant hatch conspiracy to kill the deceased and for that purpose, they hired accused No. 2 and 4 and on 30.03.2018, they purchased chopper. Then, on 04.03.2018 they purchased petrol and took the deceased to the spot by pretending that they hired vehicle of deceased to receive relatives at Manmad Railway Station. While returning from Manmad Railway Station, this applicant and accused No.2 killed the deceased by assaulting him with chopper and to disappear evidence, they set the dead body on fire.
- 4) It is the contention of applicant that he is falsely implicated in this crime. He was arrested on 05.04.2018. Sufficient PCR was granted and thereafter, he was sent to judicial custody. Now, nine months have been elapsed and he is in jail custody. He is not having criminal background. He is having his permanent residential house and other immovable properties at Ojhar. There is no evidence against him that he had illicit relations with wife of deceased. There is no eye-witness to incident to say that he killed the deceased. As regards the CCTV footage from Petrol Pump from where it is alleged that the applicant has purchased petrol to set the dead-body on fire, the applicant is not appearing in the said CCTV footage. Moreover, he is also not appearing in the CCTV footage obtained from Manmad Railway Station. As regards the recovery of chopper u/s. 27 of Evidence Act at the instance of applicant, it is mentioned in the statement of accused that he thrown said

chopper and not concealed and therefore, it is not a discovery but merely recovery of knife from a place which is open to public. In short, it is pointed out that there is no prima facie case against the applicant and therefore, he be released on bail.

5) On the other hand, the ld. APP opposed the application on the ground that there is ample evidence against the applicant. He is appearing in the CCTV footage while purchasing petrol. The chopper used while committing murder of deceased, is recovered at the instance of applicant, his blood stain clothes are also seized and therefore, the applicant should not be released on bail.

6) The original complainant has also opposed the application on the ground that present applicant is the master mind of the crime. There is evidence against him that he purchased petrol and set the dead-body of deceased on fire to disappear evidence. The family members of complainant got frightened due to the incident and they are having apprehension that applicant may commit any serious offence against them, if released on bail.

7) From perusal of the charge-sheet, it appears that there is seizure panchanama of CCTV footage of Petrol Pump, in which it is mentioned that applicant is appearing in CCTV footage while purchasing petrol in the night of incident. There is statement of the applicant u/s. 27 of Evidence Act, from which, it appears that the applicant has given statement that he thrown chopper and bottle of petrol as well as his wearing clothes and on the basis of said statement, one chopper came to be recovered. The clothes could not be recovered as the same are stated to be thrown in the river. The postmortem report of deceased shows that deceased had multiple incise wound on vital part and his body was found burnt upto 96.1%. As such, prima facie the postmortem report and the CCTV footage as well as the discovery of chopper and other incriminating articles gave strength to the case of prosecution regarding involvement of this applicant in the crime. Though, there is no eye-witness, there are circumstantial evidence available against applicant/accused. There are also statements of witnesses who have stated the previous conduct of the applicant showing involvement of the applicant. As there are

allegations that wife of deceased had illicit relations with the applicant, there is strong motive to commit the offence. Hence, it cannot be said that there is no prima facie case against the applicant. Though, the investigation is over and charge-sheet is filed, the offence is punishable with death or life imprisonment, due to which there is every likelihood that the applicant may remain abscond and may tamper with evidence by pressurizing the witnesses. Therefore, it would not be proper to release the applicant on bail. The trial can be expedited and therefore, I deem it fit to pass following order.

**Order**

1/- Application Exh.31 filed by applicant/accused No.1 stands rejected.

Niphad.  
16.03.2019.

( R. G. Waghmare ),  
Additional Sessions Judge,  
Niphad.