

**Sessions Case No. 147 of 2019**

Ganesh @ Ganya Variya Bhosale (A-4) Vs. The State

**Order Below Exh.7.**

( Passed on 16<sup>th</sup> July, 2021 )

- 1] This application is filed by applicant/accused No.4 Ganesh @ Ganya Varja Bhosale for grant of regular bail under Section 439 of Cr.P.C.
- 2] I have heard learned counsel for applicant/accused No.4 and learned APP. Perused the charge-sheet.
- 3] The applicant/accused No.4 and co-accused are charge-sheeted before this Court for the offences punishable under Sections 307, 397, 459, 506 read with 34 of IPC.
- 4] The case of the prosecution in short is such that :  
On 04/05/2019 at about 09.00 p.m. in the field of one Prakash Trambak Kabade at Chandwad woodland, when the first informant and his son were sleeping outside the house, the applicant and co-accused came there and asked wife of the first informant to open the door and thereafter, forcefully entered into the house of informant and with an intention to commit robbery, they gave blow of knife on the head of informant. They also hit a spade on the head of son of informant and started to search valuable articles in the house. Meanwhile, as the family members of the informant raised shout, neighbours rushed there to rescue them, upon which the applicant and co-accused also assaulted them with knife.
- 5] As per the applicant, he was arrested on 06/02/2021 and till 09/02/2021 he was given in police custody and since then he is in judicial custody. He is innocent and a poor person. He is an agriculturist having agricultural land at Tahasil Paithan, District Aurangabad. He has no criminal

background. He has not assaulted anyone with any weapon. Considering the injuries sustained by the informant and other persons, it does not appear that the weapons were deadly. Therefore, Section 307 of IPC would not attract. Now the investigation is over and charge-sheet has been filed and nothing remained to be investigated. He is ready to abide each and every conditions whichever may be imposed.

6] The prosecution has opposed the application on the ground that the applicant and co-accused had been to the spot with an intention to commit robbery. Some of the accused are still absconding and therefore, it cannot be said that investigation is over. The applicant is habitual to commit similar offence and therefore, there is every likelihood that upon release on bail, he may commit similar offence.

7] From perusal of the charge-sheet, it appears that when the applicant and co-accused namely, Abhiman Shivdas Pawar had been to the spot to commit robbery and they assaulted the informant and his son with knife, neighbours arrived there and they assaulted the applicant and co-accused Abhiman Pawar and other accused, in which co-accused Abhiman Pawar received severe injuries and he died. Therefore, an offence under Section 302 of IPC is registered against the assailants vide CR No. 62/2019. This indicates presence of the applicant and co-accused on the spot. From perusal of the injury certificate of the informant and his son, it can be gathered that they have received injuries on head with hard and blunt object. Another injured namely, Prakash Vasjdeo also received incise wound on his left forearm, while another injured Santosh Ahire has received incise wound on right arm and these injuries appears to be caused by sharp object. It does not appear that the applicant or co-accused were known to the informant and other witnesses, previously and therefore, question of false implication of the accused in this crime would not arise. The presence of the applicant and co-accused on the spot in the night hours also make a strong case against the applicant and co-accused. The charge-

sheet also reveals that present applicant and co-accused Manohar Kale were absconding for long period and the Investigating Machinery was required to arrest them by taking their search. Considering the entire circumstances under which the alleged incident happened, it appears that the applicant and co-accused had been the spot with deadly weapons to commit robbery and in that attempt, they assaulted the informant and his son with deadly weapons on head and when the neighbours arrived, they also assaulted the applicant and co-accused, in which co-accused died. As such, there is prima-facie case against the applicant and co-accused. The offence is serious, punishable with severe punishment and therefore, possibility of applicant remaining abscond after release on bail, cannot be ruled out as he was previously remained abscond. Hence, I deem it fit to pass the following order.

**ORDER**

1] Application is rejected.

Date : 16<sup>th</sup> July, 2021.

**Sd/-**  
(R.G. Waghmare)  
Additional Sessions Judge-1,  
Niphad.