

Sessions Case No. 79 of 2024*The State Vs. Santosh Sukdeo Elinje***Order Below Exh.04.**

1. Applicant / accused **Santosh Sukdeo Elinje**, resident of Dugaon, Tal. Chandwad, Dist. Nashik has preferred this application for bail under Section 483 of BNSS after filing of charge-sheet. He is arrested in CR No. 14/2024 registered at Chandwad Police Station for the offence punishable under Sections 302, 324, 323, 504, 506, 120-B, 143, 147, 148, 149 of the Indian Penal Code and under Section 135 of Maharashtra Police Act.

2. Perused the application, charge-sheet and documents filed on record.

3. Facts of the prosecution case in nutshell are as under :-

Informant Sheetal Raju Shinde lodged complaint with Chandwad police station on 16/01/2024 at about 10.35 p.m. stating therein that she is residing at Dugaon Shivar, Tal. Chandwad alongwith her family members including husband Rajendra Kedu Shinde who was doing business of land developer. On 16/01/2024 in the morning at about 10.00 a.m. Raju Shinde left the house for office. At about 01.30 p.m. the informant received call from her husband. He informed her that Chanchal Kshirsagar, his mother, brothers, son and wife etc. are abusing him on account of previous quarrel, therefore, the informant alongwith her co-wife Sunita,

went towards his office, at that time, her husband was circled by Chanchal Bhanudas Kshirsagar, his wife Vaishnavi Kshirsagar, brother Vinod Kshirsagar, his wife Punam Vinod Kshirsagar, Raj and Sai Chanchal Kshirsagar, Nikita and Kashish Vinod Kshirsagar, Bebitai Kshirsagar, mother of Chanchal and one Piyush Sutar. They were abusing Raju Shinde. The informant with the help of her near relatives and other persons, settled the dispute and thereafter, the accused persons went towards their house. The informant, her husband and other family members stayed near the office.

4. At about 02.30 p.m. Chanchal Bhanudas Kshirsagar and others again came near office of Raju Shinde. Chanchal was armed with iron rod, Vinod Kshirsagar was having wooden log in his hand, Vaishnavi Kshirsagar, Punam Vinod Kshirsagar, Bebitai Bhanudas Kshirsagar, Raj, Sai, Nikita, Kashish and Piyush Sutar were also present there. They started abusing the informant and her family members. They uttered the words “ राजा तुला जीवंत ठेवणार नाही ” and assaulted on him. The informant and Sunita and others were trying to settle the dispute, at that time, Piyush Satish Sutar gave blow of sharp edged weapon towards left side of chest of Raju Shinde. He also gave blows of the said weapon on left shoulder and wrist of Raju. Raj Chanchal Kshirsagar gave blow of knife on the head of Raju Shinde. Piyush Sutar also gave blow of the weapon in his hand on the back of Prashant Thorat. Raju fell down on the ground. He was subsequently, carried to Suvidha Hospital, Chandwad where he was declared brought-dead. On the basis of said complaint, above-said crime came

to be registered against the applicant / accused.

5. Heard learned Advocate for applicant / accused. He submitted that the accused is falsely implicated in this crime on account of previous enmity between the parties. There is no evidence against present accused / applicant for the offence punishable under Section 302 read with section 120-B of I.P.C. The applicant / accused had no intention or motive to commit murder of the deceased. There is inordinate delay in lodging the FIR. Investigation of the crime is completed. Charge-sheet has been filed against the accused in the Court. Name of the present applicant / accused is not mentioned in the FIR. Main allegations are against co-accused. Nothing is recovered from the present applicant / accused. His name is revealed in supplementary statement of the informant which is recorded after 4 days of lodging of FIR. Allegations against present applicant/ accused is that he made viral one post against the deceased and his family members. But witness Chetan Shejwal has categorically stated in his statement that the said post was made viral by him and not by the present applicant / accused.

6. Learned Advocate for the applicant / accused further submitted that co- accused Vaishnavi, Punam, Bebitai, Nikita are already released on bail. As per the contents of FIR, these accused were present on the spot of incident and abused the deceased. Present applicant / accused is on more better footing. Admittedly, he was not present at the time of incident. Therefore, present

applicant / accused is entitled to be released on bail on the grounds of parity. There is no evidence to connect him for the offence p.u.s. 302 read with 120-B of IPC. The accused / applicant has no criminal antecedents. Further detention of the accused behind the bars will amount to pretrial detention. The accused is ready to abide conditions of the bail. Therefore, he prayed to allow the application.

7. Heard learned A.P.P. for the State. He vehemently submitted that applicant / accused has committed serious offence of murder. From the statements of informant and other witnesses, it is crystal clear that present accused / applicant is involved in the crime. He is the brain behind the crime though he was not present on the spot of incident. There were previous disputes and quarrels between the parties. Many cases are filed against each other in the Court. The prosecution has made out prima facie case against the accused. Capital punishment is provided for the offence punishable under Section 302 of the IPC. The accused may tamper with the prosecution evidence, if released on bail. Therefore, considering seriousness and gravity of the crime, he prayed to reject the application.

8. Upon hearing the learned Advocate for applicant / accused and learned A.P.P. and on perusal of charge-sheet and the documents on record, it appears that the alleged offence is of very serious nature. But there is no evidence against present applicant / accused. Admittedly, he was not present on the spot of incident and

has not played active role in commission of the crime. It is alleged that present applicant / accused has made viral a post against deceased and his family members. Copy of the same is produced on record which reads as under :

“ कोणीतरी घाबरला असेल किंवा नाही माहित नाही पण आता स्वतः संतोष एळिंजे उदयापासून लाईव्ह येणार ” and “ आज वर्षाचा पहिला सण दुश्मनाला खावू दयावा. मकरसंक्रांतीच्या हार्दिक शुभेच्छा ”.

After going through the said post, it appears that there is nothing in the said post against the deceased. Witness Chetan Shejwal has stated in his statement that these post were made viral by him and not by the present applicant / accused. Therefore, in my opinion there is no cogent evidence against present applicant / accused to reject his bail application.

9. There is substance in the argument of learned Advocate for applicant / accused that present applicant / accused is on the better footing than co-accused who are granted bail. Co-accused Vaishnavi, Punam, Bebitai and Nikita were present at the time of incident and abused the deceased. Still they are released on bail. Admittedly, present applicant/ accused was not present on the spot of incident and therefore, he is entitled to be released on bail on the grounds of parity. Considering all these facts and circumstances, I have no hesitation to hold that the present applicant/ accused deserves to be released on bail. Hence, I pass the following order.

ORDER

- 1] Application is allowed as under.
- 2] The applicant / accused **Santosh Sukdeo Elinje**, resident of Dugaon, Tal. Chandwad, Dist. Nashik has be released on bail on furnishing PR Bond sum of Rs. 50,000/- (Rupees fifty thousand only) and one surety of like amount in connection with CR No. 14/2024 registered at Chandwad Police Station for the offence punishable under Sections 302, 324, 323, 504, 506, 120-B, 143, 147, 148, 149 of the Indian Penal Code and under Section 135 of Maharashtra Police Act.
- 3] The applicant/accused shall attend the Court scrupulously on every date and shall not tamper with the prosecution witnesses in any way and in any manner, in default his bail is liable to be cancelled.
- 4] The applicant/accused shall not abscond and furnish his address to the police alongwith address proof and mobile numbers.
- 5] The applicant/accused shall not leave India without the prior permission of the Court.

(Dictated and pronounced in open Court.)

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

Date : 04/02/2024.