

ORDER ON BAIL APPLICATION BELOW EXH.45
IN SPECIAL CASE NO.01/2021.

This is an application for bail under section 439 of the Code of Criminal Procedure filed by an accused Datta Raner in Crime No.607/2020 registered under section 302, 102-B, 201, 143, 147, 148, 149 of Indian Penal Code read with 3(2)(v) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act.

2. The applicant submitted that this is his first bail application. He came to be arrested on 10/10/2020 and he was remanded to P.C.R. on 17/10/2020 and since, thereafter, till today he is in M.C.R. There is no direct evidence to show the intention and motive of the applicant/accused. The name of applicant/accused is not figured in F.I.R and F.I.R is silent about the act of present applicant. There is no recovery from the present applicant. The charge-sheet does not disclose that weapon is used by the present applicant/accused. There is no evidence to get connect the applicant in the alleged crime. The cause of death of Ramabai as per the P.M. report was due to head injury. There is no criminal record of the applicant/accused. Since last one year applicant is in jail and family members of applicant/accused are facing financial crises and starvation. He is falsely implicated in this crime. As one of the accused was released on bail, hence, as per rule of parity, present applicant to be released on bail. He is ready to abide all conditions imposed by the Court. Hence, applicant prayed that he be released on bail by allowing this application.

3. It is the case of prosecution that accused no.1 Santosh was serving in the Police department and he was acquainted with deceased Ramabai Sadavarte, member of Scheduled Caste. Accused no.1 has promised deceased Ramabai to give job to her. Accused no.1 has insured Ramabai for the amount of Rs.25 Lacs through insurance agent. Accused Santosh has

deposited the premium of insurance of Ramabai. In order to get the insurance amount of deceased Ramabai. He has prepared plan to kill Ramabai along with co-accused Dnyaneshwar, the Vishal Khetre, present applicant and Radha. It is further case of prosecution that on 06/10/2020 in the night time, Vishal Khetre, accused Santosh and Dnyaneshwar came to Parbhani. Accused Santosh called Ramabai with the document, at that time accused Santosh also called accused Radha and present applicant. Accused Radhabai injected diazepam to deceased Ramabai. The present applicant/accused and other accused have pressed the mouth of deceased Ramabai. Vishal Khetre and co-accused Dnyaneshwar gave stone blow on the head of the deceased. After death of Radhabai, she was taken into the Civil hospital, Parbhani. However on the way to Civil Hospital, the Auto Rikshaw was stopped at Idgah Maidan at that place, red colour clothe covered to deceased Ramabai's face was thrown there. It was done to show that deceased Ramabai was died in the accident. Accused Santosh was arrested at civil hospital on the suspension. Thereafter, charge-sheet came to be filed against all the accused including applicant.

4. Notice came to be issued to the victim and she appeared, however, she did not file separate reply.

5. DGP for state has resisted this application by filing reply on Exh.47 on the ground that present applicant has helped man accused to commit murder of Ramabai. The present applicant has assaulted deceased by means of stone on her head. He had taken active part in commission of offence. Accused Dnyaneshwar Harkal had made extra judicial confession before two witnesses and in that confession he disclosed that he along with present applicant and Vishal Khetre have committed murder of one lady at Parbhani. In the CCTV footage the present applicant/accused appeared while removing the dead body of deceased in the night. If the present applicant/accused is released on bail he will pressurize to the prosecution witnesses and tampering to the evidence. on these reasons, D.G.P. for state

prayed that application be rejected.

6. Perused the application and say. Heard Advocate **Smt. Nahin Yusufzai** for the applicant and D. U. Darade, D.G.P. for state perused the record and charge-sheet.

7. On perusal of charge-sheet and record, it reveals that as per allegations, pre plan murder has been committed by accused No.1 Santosh with the help of present applicant and other co-accused. As per the statement of witnesses, when accused No.5 Radhabai gave injection of diazepam to the deceased, at that time present applicant has pressed the mouth of deceased. As per extra judicial confession made by accused Dnyaneshwar before two witnesses, he disclosed that the present applicant, he himself and accused Vishal have committed murder of a lady at Parbhani. The facts clearly goes to show that present applicant/accused took active part in the commission of offence. Learned counsel for applicant argued that there is no direct or indirect evidence against the present applicant and another accused Radhabai came to be released on bail, therefore on the ground of parity, present applicant be released on bail. So far as the role of accused no.5 Radhabai in commission of alleged crime is concerned, she has only injected drug Diazepam to deceased Ramabai and by considering said role of accused no.5 Hon'ble High Court was pleased to allow the bail application of accused no.5. So far as role of this applicant is concerned, as per the extra judicial confession of co-accused, this applicant, Vishal Khetre, Santosh Jadhav and co-accused Dnyaneshwar have assaulted to deceased Ramabai by means of stone on her head. The P.M. report reveals that the cause of death of Ramabai was due to head injury. It means, the role of this applicant as compared to accused no.5 Radhabai is very serious in commission of crime. Therefore, this applicant is not entitled to get benefit of ground of parity in his favour. One blood stained pant came to be recovered from the applicant/accused. The whole case of prosecution is based on some direct evidence as well as

circumstantial evidence I do not think it proper at this stage to discuss roles played by each accused in commission of alleged crime at this stage. Upon going through entire case papers and record it can be gathered that there is ample evidence against the present applicant/accused and that is why charge-sheet came to be filed against him. The present applicant is entered into criminal conspiracy with accused no.1 and other accused. Hence, if the present applicant is released on bail, there is possibility of tampering to the prosecution witnesses and evidence. Hence, on these reasons and in the light of above discussion, applicant/accused is not entitled to be released on bail. Hence, I pass the following order.

ORDER

The bail application Exh. 45 is hereby rejected.

(N. G. Satpute)

Sessions Judge-5, Parbhani.

Date: 13-01-2022.