

ORDER ON BAIL APPLICATION BELOW EXHIBIT NO. 252
IN SPECIAL CASE NO. 1/2021

This is a successive bail application under section 439 of The Code of Criminal Procedure filed by accused No.2 Dnyaneshwar @ Manoj Balaji Harkal in Crime No.607/2020, registered under section 302, 102-B, 201, 143, 147, 148 r/w 149 of the Indian Penal Code and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. It is the case of prosecution against the accused that accused Santosh was serving in the police department and he was acquainted with deceased Ramabai Sadavarte, member of Scheduled Caste. Accused Santosh has promised deceased Ramabai to give job to her. Accused Santosh has insured Ramabai for the amount of Rs.25 Lac 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 applicant Dnyaneshwar, co-accused Vishal Khetre, Radha and Datta. It is further case of prosecution that on 06/10/2020 in the night time, co-accused Vishal, accused Santosh and applicant Dnyaneshwar came to Parbhani. Accused Santosh called Ramabai with the document, at that time, accused Santosh also called accused Radha and Datta. Accused Radhabai injected Diazepam to deceased Ramabai. Accused Vishal Khetre caused deceased Ramabai to fall. Accused Vishal and the applicant Dnyaneshwar gave stone blow on the head of the deceased. After death of Ramabai, she was taken into Civil hospital, Parbhani. However, on the way to Civil Hospital, the auto-rickshaw was stopped at Idgaah Maidan. At that place red colour cloth 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 suspicion. Thereafter, charge-sheet

came to be filed against all the accused including the applicant.

3. The applicant submitted that he was arrested on 08/10/2020 and since then he is behind bar till today. Regular bail application of this applicant was rejected by this Court and this applicant has moved Criminal Appeal No.210/2022 before the Hon'ble High Court. On 06/04/2022 the applicant has withdrawn said appeal, thereafter, he has not moved any application for bail. The charge-sheet came to be filed on 05/01/2021. The charge was framed on 18/08/2021. The prosecution had begun the evidence on 15/10/2022. In all 26 witnesses are examined. Prosecution has not filed list as to how many witnesses yet to be examined by the prosecution. Looking to the conduct of the prosecution, there is uncertainty about the completion of trial and liberty of accused is curtailed. The case is based on circumstantial evidence. Till today there is no clinching circumstance is brought against the present applicant on record to show that the accused is directly connected with the offence of murder. The prosecution witnesses No.12, 13 & 14 have not supported the case of prosecution. Hardly five witnesses have stated something against the present applicant. Though the appeal has withdrawn by the applicant before the Hon'ble High Court, but on merits the Hon'ble High Court has not decided any petitioner of the applicant till date, therefore, the application is maintainable before the Court. The applicant has no criminal antecedent. Hardly due to unavoidable circumstances, counsel for accused has adjourned the trial. Now the matter is for cross-examination of Vyankat Kusume (PW-26). The applicant is ready to abide all the conditions imposed by the Court and ready to furnish surety. Hence, lastly applicant prayed that he be released on bail by allowing this application.

4. APP for the State has resisted this application by filing reply (Exh.261) on the ground that accused No.1 Santosh is police constable,

who was deputed as Outpost of Police at Civil Hospital, Parbhani. Accused No.1 with the present applicant and other three accused have made conspiracy prior to 10 to 12 days of the incident and they arranged to buy accidental insurance policy with Manipal Sigma Company. In pursuance of said conspiracy accused No.1 brought deceased Ramabai in open land near Pathri by motorcycle and accused Radha had given intoxicated injunction to the deceased and thereafter accused Vishal and Datta have committed murder of Ramabai by assaulting her by means of stone on her head. This applicant Dnyaneshwar had brought her dead body to the Civil Hospital and falsely reported that deceased died in road accident. The present applicant has helped main accused to commit murder of Ramabai. The applicant had taken active participation in the commission of crime. The present applicant has made extra judicial confession before witness Govind Maske and Ratneshwar Kendalkar and in that confession this applicant disclosed that he and Vishal Khetre has committed one murder of one lady at Parbhani. In CCTV footage the applicant is appearing while carrying dead body of deceased. The red clothes which was put on the head of deceased came to be seized from this applicant on the basis of statement made by him under section 27 of the Evidence Act. If the applicant is released on bail, he will pressurize and tamper to the remaining witnesses. Hence, considering the nature of offence and prima facie case against the applicant, the application may kindly be rejected.

5. Since many times notice came to be issued to the victim. Notice came to be served to the victim and the victim appeared on 7/5/2025 before the Court and resisted this application by filing reply (Exh.288) on the ground that if the bail is granted to the applicant, there is danger to her life. Hence, she prayed that application may be rejected.

6. Perused application and say. Heard learned counsel for the applicant/accused and learned APP for the State. Perused charge-sheet

and entire case papers. Heard the victim.

7. In this case, there is evidence against the applicant about he has made conspiracy with co-accused in assaulting to the deceased by means of stone on her head, clothes of the applicant and piece of cloth which was used for muffling the face of deceased are recovered from the applicant. There is extra judicial confession about there is involvement of the applicant in said crime and there is active role of the applicant in said crime. In all 30 witnesses are examined in this case and the matter is fixed for further examination-in-chief of witness No.31. Some witnesses relating to material circumstances are yet to be examined.

8. Upon going through the record, it appears that, earlier this applicant has moved bail applications. He has also moved Cri. Appeal No. 210/2022 before the Hon'ble High Court and he has withdrawn said appeal on 06/04/2022. Thereafter, on 15/10/2022 first witness was examined and till today 30 witnesses are examined and PW-31 is partly examined by the prosecution. For filing the present application there are no changes in circumstances, however, as per contention in the application, there is uncertainty when the trial will be completed. No doubt, Hon'ble High Court directed this Court to dispose off the case within reasonable time. However, during trial, bail application and other applications have been moved by the co-accused, sometimes witnesses do not appear, sometimes summons were not serve upon the witnesses, sometimes DGP for the State was engaged in another time bound Sessions Trial, sometimes counsels for the accused were not available and sometimes this Court is also busy in other under trial matter and other cases, therefore, without co-operation of prosecution and the accused trial could not concluded within reasonable time.

9. Hence, considering the record, it reveals that, this applicant has taken active part in commission of crime by engaging in criminal

conspiracy with co-accused and seizure of cloth from the applicant and extra judicial confession made by the applicant and he has brought dead body of the deceased to Civil Hospital, Parbhani. Hence, the applicant is not entitled to be released on bail. If the applicant is released on bail, there is possibility of tampering to the prosecution witnesses and evidence as trial yet to be completed. Hence, on these reasons and in the light of above discussion, application is liable to be rejected. Hence, I pass the following order.

ORDER

Bail application (Exh.252) is hereby rejected.

Date : 14/05/2025.

[N. G. Satpute]
Special Judge cum
Additional Sessions Judge-3,
Parbhani.