

ORDER BELOW EXH. 8 IN SESSIONS CASE NO. 37/2016 :-

This is an application filed by the accused under section 439 of the Code of Criminal Procedure praying for releasing him on bail in connection with Crime No. 440/2015 registered with Kothrud Police Station, Pune, under sections 302, 362, 367, 354 and 323 read with section 34 of the Indian Penal Code.

2] The accused has submitted that as per the case of prosecution. One Shama Bapu Devkule lodged complaint alleging that the accused persons having doubt about illicit relationship between the wife of the accused Ganesh Moghe and her (complainant's) son Datta, assaulted family members of the complainant. It is alleged by the complainant that on 30-9-2015 at about 10.30 a.m., the accused persons took out her saree and they beat her husband. Thereafter, they abducted her son Khandu and they assaulted him. Her husband was shifted to the hospital and the doctor declared him as dead.

3] On lodging complaint against the accused and others, crime was registered with Kothrud police station vide crime No. 440/15 and the accused came to be arrested on 30-9-2015.

4] The accused has specifically submitted that he has not committed any offence as alleged and he is entitled for the relief of bail.

5] The prosecution has not filed its say inspite of sufficient time and opportunity.

6] Heard advocate Shri Dushing for the accused. Heard learned APP Shri. Pathare for the State. Perused record.

7] In view of these facts, following points arise for determination. I have recorded my findings against them for the reasons stated thereafter.

<u>POINTS</u>	<u>FINDINGS</u>
1] Whether the accused is entitled for bail as prayed ?	Yes.
2] What order ?	..As per final order.

R E A S O N S

Points Nos. 1 and 2:

8] While arguing this application, it is submitted by Advocate Shri. Dushing on behalf of the accused that there was no assault by any sort of weapon and no weapon is used by the accused. It is further submitted by Advocate Shri. Dushing that the Hon'ble High Court has granted bail to the accused Vijay Moghe. The role of the said Vijay Moghe and the role of the present accused is the same and the accused is entitled for the relief of bail on parity ground.

9] Learned APP Shri. Pathare has submitted in the course of his argument that in view of the order of the Hon'ble High

Court, necessary orders be passed.

10] On perusal of record, it appears that the complainant Shama Bapu Devkule lodged complaint on 30-9-2015 with Kothrud police station alleging that on 30-9-2015, at about 10.30 a.m., the accused Ganesh Moghe, Vijay Moghe, Raju Moghe and Nana Moghe on the count that there was illicit relationship between Datta, the son of the complainant Shama and Radha, the wife of the accused Ganesh Moghe, in conspiracy with each other, assaulted her and her husband.

11] It is also alleged by the complainant that the accused persons removed her saree, made her naked and they assaulted her husband Bapu Devkule by fist and kick blows and they killed him. Her son Khandu was also assaulted by kidnapping him on motorcycle of Nana Moghe and Akshay Moghe.

12] On lodging complaint with the above said allegations, crime was registered with Kothrud police station and the accused came to be arrested accordingly.

13] Having gone through the entire contents of the complaint, it reveals that according to the complainant herself, her husband was assaulted by the present accused and three co-accused with fist blows and kicks. The post mortem notes reveal that deceased Bapu had sustained multiple injuries all over his body. The role of the accused about assault is apparently appearing. However, it is a matter of fact that no weapon was

used by the accused at the time of incidence. As per the complaint lodged by the complainant, her husband was assaulted with fist blows and kicks by the present accused and three others collectively. There seems no recovery of any weapon at the instance of the present accused and in these circumstances, it cannot be gathered that there was intention on the part of the accused to kill Bapu Devkule so as to attract section 302 of I.P.C. There does not appear criminal antecedents of the accused.

14] Besides, it has also to be noted that nothing is recovered from the accused and no purpose will be served by detaining him in jail.

15] Considering these facts and considering the nature of offences alleged to have been committed by the accused, I am of the view that it will be just and proper to allow this application and to release the accused on bail, imposing some conditions. Hence , I pass the following order.

ORDER

Application is allowed.

Accused Raju Parshuram Moghe be released on bail in connection with Crime No. 440/2015 registered with Kothrud Police Station under sections 302, 362, 367, 354 and 323 read with section 34 of the Indian Penal Code, on executing P.R. bond of Rs.50,000/- (Rs. Fifty thousand only) with one or two solvent sureties for the like amount on the following conditions :

- a) Accused shall not pressurize or threaten the prosecution witnesses.

- b) The accused shall not tamper the prosecution evidence.
- c) The accused shall not jump the bail.
- d) The accused shall attend the trial regularly.
- e) The accused shall not abscond or leave India without prior permission of the Court and the accused shall furnish his permanent address to the Investigating Officer along with documentary proof.

Date: 11/7/2017.

(L. L. Yenkar)
Additional Sessions Judge,Pune.

I affirm that the contents of this PDF file order are same word to word as per original order.

Name of Steno. : S.R. Shahane,
Court Name : Smt. L.L.Yenkar,
Additional Sessions Judge, Pune.

Date on which the P.O.

Signed the order : 11/7/2017.

Date of P.D.F. : 12/7/2017.

Order uploaded on : 12/7/2017.