

<b>Sessions Case No. 161/2023</b>
<b>State of Maharashtra Vs. Krushna Vitthal Rekhale</b>

**ORDER BELOW EXH. 04**

Perused application, say filed by prosecution at Exh.5, charge-sheet and documents on record. Heard Ld. Advocate Shri. Sangram Divekar for accused and Ld. APP Shri. Salvi for State.

2] It is alleged by the state that the informant Akshada Pratik Waghmare, is the sister of deceased Sagar Gaikwad. On 26.09.2022, she lodged report in Hadapsar Police Station, Pune City. She reported that on 25.09.2022, at about 8-45 p.m. at Naral Baug, Keshav Chowk, Malwadi, Hadapsar, Pune the accused Krishna Vitthal Rekhale assaulted her brother Sagar by means of stone and wooden bamboo, caused injuries on his face and head and committed his murder. C.R. No. 1219/2022 came to be registered against accused for offence punishable under section 302 of the Indian Penal Code and section 37 read with section 135 of the Maharashtra Police Act. The offence is very serious. During investigation, the bamboo used in the crime and Auto Rickshaw is seized at the instance of accused. Samples of blood found in said Auto Rickshaw are collected. Clothes of the accused are also seized. Previously Crime No. 1676/2016 was registered against applicant. There are eye witnesses to the incident. Under such circumstances, if applicant is released on bail, he is likely to

pressurize the complainant and witnesses. Hence, application be rejected.

3] Advocate Shri.Sangram Divekar argued at length and submitted that the complainant is not an eye witness. She lodged complaint on information received from Rohan Mane. The statement of said Rohan Mane is recorded during investigation. The facts stated by him are totally contradictory to the complaint. Advocate Shri.Divekar relied upon statements of witnesses and submitted that in fact the deceased was abusing the accused. He provoked the accused. In said sudden provocation, accused assaulted the deceased. There was no preplan. After the incident, the accused did not abscond. It shows his conduct. In arrest form of accused it is specifically mentioned that he is not likely to escape the bail or threaten the complainant or witnesses. Under such circumstances, applicant/accused is ready to abide by any conditions. Hence, application be allowed.

4] Advocate Divekar relied upon decision of the Hon'ble Supreme Court in case of **K.M. Nanavati Vs. State of Maharashtra reported in 1962 – 0 AIR SC 605**. In this case, the Hon'ble Supreme Court has made following observations :-

*“ Is there any standard of a reasonable man for the application of the doctrine of “grave and sudden” provocation ? No abstract standard of reasonableness can be laid down. What a reasonable man will do in certain circumstances depends upon the customs, manners, way of life, traditional values etc. In short, the cultural, social and emotional background of the society to which an accused belongs. In our vast country there are social groups*

*ranging from the lowest to the highest state of civilization. It is neither possible nor desirable to pay down any standard with precision. It is for the Court to decide in each case, having regard to the relevant circumstances. It is not necessary in this case to ascertain whether a reasonable man placed in the position of the accused would have lost his self-control momentarily or even temporarily when his wife confessed to him of her illicit intimacy with another, for we are satisfied on the evidence that the accused regained his self-control and killed Ahuja deliberately.”*

5] Advocate Shri. Sangram Divekar further relied upon following decisions on the point sudden and grave provocation and other aspects.

- 1] Dauvaram Nirmalkar Vs. State of Chhattisgarh reported in 2022 Livelaw (SC) 650
- 2] Judgment dated 09.03.2022 in JCRLA No. 87 of 2006 in case of Gobardhan Pradhan Vs. State of Orissa
- 3] Shesha Ram Vs. State of Rajasthan reported in 2005 3 CriCC 481
- 4] S.Deva @ Devaraj Vs. State, represented by the Inspector of Police reported in 2014 0 Supreme (Mad) 2400
- 5] Kalyani Vs. State, represented by the Inspector of Police, B-1, Dharmapuri Town Policwe Station, Dharmapuri District reported in 2014 0 Supreme (Mad) 2882
- 6] Muthu Vs. State by Inspector of Police, Tamil Nadu reported in 2007 (7) Supreme 547
- 7] Jagasai Bhatra Vs. State of Odisha reported in 2021 0 Supreme (Ori) 82
- 8] Amutha Vs. State, represented by the Inspector of Police reported inn 2014 3 MLJ (Cri) 562.

9] **Baga Ram Vs. State of Rajasthan reported in 1982 0 Cri LR 5.**

6] The accused is charge-sheeted for offence punishable under section 302 of the Indian Penal Code, 1860. Admittedly, the complainant Akshada Waghmare is not an eye witness. She received information from the friends of the deceased and lodged report. She merely set the criminal law in motion. Apart from Rohan Mane, whose statement is referred by advocate Shri. Sangram Divekar, there are other eye witnesses. The eye witnesses have categorically stated that initially the accused assaulted the deceased by means of stone. Thereafter, the accused put the head of the deceased on a stone, returned to his Auto Rickshaw, brought a wooden bamboo and mercilessly hit on the face and head of the deceased. There are specific averments in statements of witnesses that they had tried to obstruct and pacify the accused but he did not pay any hid. The conduct on the part of the accused clearly shows that he intentionally assaulted the deceased to cause his death. Prima-facie the offence under section 302 of the Indian Penal Code, 1860 is made out against accused. There is prima-facie evidence against him. Under such circumstances arguments of advocate Shri. Divekar are not at all acceptable. Rulings relied upon by him are not squarely applicable to present set of facts. Considering the very conduct of the accused and the fact that one more crime is registered against him, there is likelihood of pressurizing the complainant and witnesses. Hence, applicant/accused is not entitled to be released on bail. Hence, the order.

**ORDER**

Application is rejected.

Pune.

Date : 13/06/2024

(P.P.Jadhav)

Additional Sessions Judge, Pune.

**CERTIFICATE**

I affirm that the contents of this P.D.F. file Order are same word for word as per original Order.

Name of Steno : Mrs. C.N. Jagtap

Court name : PPJadhav,  
Additional Sessions Judge, Pune.

Date of Order : 13/06/2024

Order signed by presiding officer on : 13/06/2024

Date of PDF & upload : 13/06/2024