

SESSIONS CASE NO. 247/2024
(CNR No. : MHPU01-004521-2024)
State of Maharashtra ThruChandannagar PS Versus
Shambhu Darpi Ram

ORDER BELOW EXH.3

This is bail application filed under Section 439 of CR.P.C. by applicant/accused **Shambhu Darpi Ram** who arrested in Crime No.532/2023 registered with Chandannagar Police Station for committing offences punishable under Section 302 of the Indian Penal Code (*in short IPC*).

2. It is the case of prosecution that Santosh Kondiba Ginalwad is residing with his friends Ramvilas Mandal and Ajaykumar Mandal at Taramati Burma building in two rooms at Terrace and working in CTR Company. In same building one Vikaskumar Mahendra Mohto is residing on first floor room and one Baiju Mandal (deceased), his wife Sarita Devi, his children and brother of Sarita devi by name Ramvilas Gopi Mandal were residing on second floor. Accused Shambu Ram is also staying with his family in the same building.

3. On 12/11/2023 the informant came at his room at 10.15 p.m. That time he noticed that Vikaskumar and accused Shambu were taking drink on terrace. When he entered in the room, he noticed that Baiju Mandal, Ramvilas Mandal and Ajay Mandal were taking drink, informant also joined them and consumed liquor. Thereafter Ajay Mandal went in his room to go

to sleep. Ramvilas went outside the building. At about 12.05 a.m. of 13/11/2023 Baiju Mandal deceased after taking drink leave the room to go to his house. When he left the room, informant heard loud conversation between deceased Baiju and accused Shambhu. Therefore the informant came out of the room. Baiju was asking to accused “तुमने किराणा दुकानदार को मुझे उधार सामान मत दो ऐसे कयो बोला” That time Shambhu replied that “मैंने ऐसे किसको नहीं बोला, तुमको झूठ लगता है तो हम कल दुकानदार के पास जा के किसने क्या बताया है यह सच झुठ कर लेंगे”. The informant tried to rescue their quarrel but both of them were not in a condition to hear him. Shambu caught collar of Baiju and took him at the side of terrace and pushed him. Therefore Baiju fallen down and sustained injury. He was taken at hospital but Doctor declared him as dead. The informant lodged report whereupon Crime No. 532/2023 was registered for the above mentioned offences.

4. The applicant has prayed for bail by filing this application. Learned advocate for the applicant submitted that there was no any intention or motive to commit murder of deceased Baiju. It was purely accident without any quarrel between two drunken person, one fallen from the terrace and died. Therefore it is nothing but accidental death. No one is at the home to look after kid of the accused. He is only bread winner. He is ready to abide by the conditions. Hence bail may be granted.

5. Learned PP Mr. Pathare for the State submitted that the accused knowingly pushed to the deceased from the terrace and thereby committed murder. Therefore offence under Section 302 of the IPC has been rightly attracted. The offence is serious in nature. The accused is belongs to out of State. There are chances of absconding. Hence he may not be released on the bail.

6. Perused the application and say. Considered arguments. From FIR it appears that prior to quarrel both the deceased as well accused had consumed liquor. Suddenly quarrel took place and that too because of questioning by deceased to the accused. It appears from the complaint that both were aggressive and both of them were not in position to hear informant who were trying to rescue the quarrel. Considering the circumstances that the quarrel took place between two persons who are under the influence of liquor and that too on building terrace and when both were not in a position to hear third person, prima facie possibility appears that due to sudden fights between these type of persons and that too on the terrace of the building deceased might have fallen from the terrace. Considering ingredients of Section 302 of the IPC intention to cause death is material one or knowledge about the act done by the person by which death is caused is material one. Here admittedly the accused was under the influence of liquor and circumstances discussed above prima facie shows substance in

the submission of learned advocate for the applicant about absence of intention or motive. Further admittedly accused is not habitual offender and no criminal antecedents. It is not pre-planned murder. He is only bread winner in the family and ready to abide by the conditions. In such circumstances, no purpose will be suffice by keeping the applicant behind bar. At the same time considering the facts that the accused belongs to the other state, heavy surety needs to be imposed in order to secure his presence during trial.

7. In view of above discussion the application deserves to be allowed, accused found to be entitled for bail. Thus I pass following order :

ORDER

- 1) The application is allowed.
- 2) Applicant, namely **Shambhu Darpi Ram** be released on bail in CR No.532/2023 registered with Chandanagar Police Station, Pune for committing the offences punishable under Section 302 of the Indian Penal Code on his furnishing PR. Bond of Rs.1,00,000/- (Rupees One Lac Only) with one or two solvent sureties in the like amount.
- 3) The applicant shall not tamper the prosecution evidence in any manner.
- 4) The applicant shall not pressurize the prosecution

witnesses.

- 5) The applicant shall make himself available as and when called by the investigation officer and attend each and every date of the hearing.
- 6) The applicant shall not indulge into any other crime.
- 7) Breach of any of the conditions, entails the prosecution for cancellation of bail.
- 8) Inform to the jail authority accordingly.

Pune.

Date : 18/09/2024

[V. R. Kachare]

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 the Court :- **Shri. V. R. Kachare**
Additional Sessions Judge, Pune

Name of the Steno :- **Smt. B.J. Khandre**
Stenographer (Grade-I)

Date of Order :- 18/09/2024

Order signed by
presiding officer :- 20/09/2024

Order uploaded on :- 20/09/2024