

SESSIONS CASE NO. 503/2018

CNR NO. MHPU01-010296-2018

Ajinkya Vijay Kamble

.... Applicant.

Vs.

State of Maharashtra

.... Respondent.

ORDER BELOW EXH.16

This is the FIRST bail application under Section 439 of Cr. P. C. by accused / applicant Ajinkya Vijay Kamble in connection with C. R. No.275/2018 registered by Yerawada police station for the offences punishable under section 302, 201, 212 r/w 34 of IPC. The accused is arrested on 19.4.2018.

[2] Perused the application and say given by learned APP on the overleaf. Heard advocate Mr. Malviya for applicant APP Mr. Aurangabadkar for respondent / State.

[3] Advocate Mr. Malaviya argued that there are 3 accused in the present crime. Out of those three accused, two accused i.e. the mother of present applicant and another co-accused, who is juvenile, are released on bail. The investigation is over and accused is in jail for more than eight months. There is no direct or circumstantial evidence on record to connect the accused with the crime. There are no eyewitnesses of the incident. The incident alleged to have taken place at around 2 a.m. on 18.4.2018 and the prosecution has come with the theory of last seen together. He submitted that accused is arrested out of suspicion, he is not keeping well in the jail and he is admitted for last one month in the hospital at jail. He is ready to abide any condition if imposed. No purpose will be served by keeping accused in jail after filing of

charge sheet.

[4] APP Mr. Aurangabadkar argued that the offence in question is serious in nature. There is sufficient material on record to show that the accused had committed murder of deceased Nikhil. There is material on record to show that one slipper of the deceased and one slipper of the accused were left at the spot and he took with him his one own slipper and one slipper of accused and they were seized at the instance of accused on a disclosure statement made by him. The slipper seized at the instance of accused have blood stains. So also, there is a audio recording of the incident wherein the person recording the incident had identified the present applicant's voice. He further submitted that the ground of parity is not available as out of two accused the one who is released is a juvenile and so far as the mother of accused, she is booked only for offence under section 201, 212 of IPC for causing disappearance of evidence.

[5] From the material on record it is clear that the prosecution has come with the case that on the night previous to the incident deceased Nikhil was lastly seen in the company of applicant / accused Ajinkya and the co-accused juvenile-in conflict with law. In present case, one Selvi Wakchoure, the close friend of deceased Nikhil had an occasion to have a telephonic talk with the deceased Nikhil when the incident alleged to have taken place. She had made a statement that at the time of said incident on said night, firstly there was talk between her and deceased Nikhil and accused / applicant Ajinkya was also with Nikhil. They were drunk and Ajinkya abused her for having relations with Nikhil. After some

time when she again called Nikhil and the call was being received, she heard the quarrel and, therefore, she had audio recording of what she was hearing from the other end. The translation of the said recording is on record, from which it can be seen that accused / applicant Ajinkya was saying “मार मार इसको, मार डालो इसको, पहले मार डालो इसको”. He also said “नाक तोड़ दाब” by taking name of juvenile offender. He also addressed juvenile saying “नाही मेला रे”. He further said “कुठला हा भेनचोत, अरे मार, मार दगड उचल, अजुन एक डाल, अरे मार तु मार”. There is audio recording of the incident and the person who recorded it identified the voice of present accused / applicant as she had a talk with him on a phone same night few moments earlier.

[6] Further there is another material on record to connect the present applicant with the crime. After the incident in hurry accused put on deceased's slipper and left the spot. So he had deceased's slipper in one leg and his own slipper in another leg. Therefore, at spot police seized one white and blue colour slipper of 7 number of left leg and one blue colour slipper with a spectra design on it of number 8 of right leg. Thereafter, after arrest of accused at his instance and on his statement police discovered the white and blue colour 7 number slippers of right leg and a blue colour slipper with spectra design at the instance of accused from his friend's house and those slippers were having blood stains. The material on record prima-facie goes to show the involvement of the accused in present crime. The offence in question is serious in nature. Therefore, this is not a case the discretion can be exercised for release of accused on bail. The plea of release of accused on the

ground of parity is also not available, as accused released on bail is juvenile and the mother is not booked for offence punishable under section 302 of IPC. Their release on bail has no bearing on this application. Hence, having regard to the material before me and above made discussion, I pass following order.

ORDER

The application is rejected.

Pune,

Dated/- 21-12-2018

(Aniruddha Y. Thatte)
Additional Sessions Judge, Pune.

I affirm that the contents of the PDF file Judgment are same word for word as per original Judgment.

Name of Steno :- Shri. V. V. Bannur

Name of Court : Shri. A. Y. Thatte, District Judge 15 and ASJ, Pune.

Judgment signed by PO on : - 21-12-2018

Judgment uploaded on :- 21-12-2018

