

Common order Below Exhs. 03 and 07
(Passed on 27/03/2024)

Accused **Dashrath @ Raj Dattatray Jadhav and Krushnkant @ Dada Chandrakant Chavhan** and three others are charge-sheeted for the offences punishable under Sections 302, 324, 143, 147, 148, 149, 427 and 504 of the Indian Penal Code, Section 4(25) of the Arms Act, 37(1), 135 of the Maharashtra Police Act, Section 3 and 7 of the Criminal Amendment Act and Section 3(1)(i), 3(2) and 3(4) of the MCOCA Act. By way of these first bail applications they are seeking relief of regular bail.

2) Accused Dashrath is seeking bail on the grounds that he has been falsely implicated, nothing is discovered or recovered at his instance, provisions of MCOCA are not attracted against him, no role is assigned to him, there is evident contradiction between the information given by the informant to the police, this creates suspicion, sanctioning authority has not applied its mind before prior approval and final sanction, he is not member of crime syndicate, investigation has been completed and he has roots in the society. On above counts, accused Dashrath prayed for bail.

3) Accused Krushnakant Sought bail on the grounds that in the statement of the informant no specific role is assigned to him, as per statement of the informant, recorded on 07/04/2022, involvement of him is not shown, as per investigation papers he is the driver of the car and there is no active role of him in commission of crime, confessional statement is not admissible in the court, he is

sole bread winner of the family, he is permanent resident of the given address, there are no chances of his absconding, he undertakes not to tamper with the evidence and he shall not leave India without prior permission of the court. Thus, he prayed for bail.

4) By way of exh. 10 application filed by accused Dashrath @ Raj is opposed by the prosecution. According to the prosecution name of accused Dashrath is specifically mentioned by the informant in the FIR, he had been at the spot of incident. He came at the spot alongwith the other companions, while leaving the crime scene his colleagues broke pan shop of witness Sugriv Yadav. In CCTV footage of 'So Fresh Foods' it is seen that vehicle gave dash to Activa of Sandeep Margale and Reshma Margale. CCTV footage of Sanjeevani medical is procured and in that footage it is found that accused came at the spot in Alto Car, found holding deadly weapons and assaulting the deceased. The weapon used during the course of crime is discovered at the instance of accused Dashrath as per Section 27 of the Evidence Act. Blood stained clothes and mobile is recovered from him. Previously, accused Dashrath has committed three offences and during the bail in that crimes the instant crime is committed. In confession statement of accused Aditya name of the accused is appearing.

5) While opposing bail of accused Krushnakant @ Dada, the prosecution has stated that his involvement in the crime is established, he came at the spot in Alto car owned by him with accused Raj Jadhav and others, his name is specifically mentioned in the FIR, in confession statement of accused Aditya name of accused

Krushnakant is appearing. While leaving the place of crime it is found that the accused and his colleagues broke pan shop of Sugriv Yadav with deadly weapons, their car also gave dash to Activa of witnesses Sandip Margale and Reshma Margale, in CCTV footage presence of the accused is appearing, scythe used in commission of the crime is discovered at his instance, Alto car no. MH12 DS 3238 is also discovered at his instance, blood stained clothes and mobile handset is also recovered, previously he was involved in two cases and during the bail in those two cases the instant crime has been committed.

6) Thus, the prosecution has objected to release both the applicants/accused on bail.

7) It is submitted on behalf of accused Dashrath that no transcription of CCTV footage is produced on record. In supplementary statement the informant stated that the accused was sitting beside the driving seat but in the FIR it is stated that he was driving the car. He further submitted that witness Sugriv Yadav has stated in his initial statement dated 24/03/2022 that accused Dada Chavhan was driving Alto car but in his supplementary statement dated 08/04/2022 name of accused Dada is not mentioned. He further submitted that Manoj Yadav has not mentioned name of accused Dashrath @ Raj in his initial statement dated 24/03/2022 but in his supplementary statement dated 08/04/2022 he identified accused Dashrath @ Raj by seeing CCTV footage. He further submitted that identification parade is not conducted. No CCTV footage is produced regarding dash given to the Activa of Sandip

Margale and Reshma Margale.

8) It is submitted on behalf of accused Krushnakant @ Dada that informant has made contradictory statements. Witnesses Sugriv and Mohammad Mustaq have not stated anything against the accused Krushnakant @ Dada. Due to rivalry accused Krushnakant has implicated, there are inherent infirmities in the panchanama, there is no evidence that for the purpose of monetary benefit the accused has committed offence. Thus, it is submitted on behalf of both the accused to release them on bail.

9) Learned SPP submitted that serious offences are committed previously by both the accused, CCTV footage are sent for examination, weapon and vehicle used in commission of the crime are recovered. He further submitted that there is bar under Section MCOCA to release the accused on bail.

10) In the FIR name of both the applicants/accused are specifically mentioned by informant Shubham Laxman Dhebe. He has stated specifically against accused Krushnakant @ Dada Chavhan that he entered into the shop and abused his brother Maruti. He gave blow of scythe on his head. He further stated about seeing of accused Dashrath @ Raj Dattatray Jadhav sitting in the driving seat of the car.

11) In light of above FIR, if confession statement of accused Aditya Ganesh Adawade is perused, he specifically confessed that he, Raj Jadhav, Dada Chavhan and others went to Nanded city in the

vehicle of Dada Chavhan. He further stated that after seeing Maruti Dhebe (the deceased), the car was taken down the road and its number plate was defaced. Thereafter, Maruti Dhebe was seen by accused Raj Jadhav in scrap shop. Dada Chavhan stopped the vehicle. He, Amol Shelar, Sainath Ade, Prasad Athavale, Abhi Gangane and others got down from the car and assaulted Maruti Dhebe. When his brother tried to intercept, he was also assaulted and thereafter they all went away in Maruti car. During transit pan shop of Sugriv Yadav was also damaged.

12) If above confession statement of accused Ganesh Avghade is considered at this stage of the matter, there is reasonable ground for believing that the applicants/accused are guilty of the offences alleged against them. The accused have committed serious offences during the liberty granted to them in previous serious offences. Looking to their previous criminal history and commission of the instant crime during their release on bail, it is likely to commit any offence by them if they are released on bail. They are not entitled to get bail in the instant crime for the above stated reasons. In the result, following order is passed.

ORDER

The applications stand rejected.

Pune.

Date : 27/03/2024

(D. V. Kashyap)

Spl. Judge under MCOC Act, Pune