

**Ajay Ratansingh Chitodia**

**Vs.**

**State of Maharashtra**

**: Order below Exh. 05 :**

(Dated 29<sup>th</sup> September, 2022)

The applicant/accused has taken out an application U/s.439 of the Cr.P.C. for grant of regular bail, in Sessions Case No.73/2022 for the offences punishable U/S 302 of the IPC on submission that there is change in circumstance after filing of charge-sheet.

**02** It is the prosecution case that on 13.11.2021 at 01.20 a.m., deceased was shouting and abusing accused. The accused was trying to pacify the deceased but he was not in the mood to listen him. The deceased has given blow of stick on head of the accused. Then annoying on the deceased, the accused took the stick and hit on the head of the deceased then he fell on the ground. The blood was oozing from the ear and nose of the deceased and after some time he died on the spot. Accused is son of the deceased. He regrets about his act therefore he went to the police station and confessed the crime. The police have recorded the statement of the accused and based on it, registered Crime No.968/2021 for offence u/s 302 of IPC. The applicant was arrested and same in judicial custody after police remand. He has filed bail application prior to filing of charge-sheet which came be rejected. Now charge-sheet is filed hence, applicant filed the present application.

**03** Heard Ld. Advocate for the applicant/accused, and Ld.

A.P.P. for the State. Perused the charge-sheet.

**04** Ld. Advocate for the applicant/accused submitted that, the story put forth by prosecution is totally different than the actual incident. That there is difference between contents of FIR and statement of accused recorded u/s. 164 of CRPC. That there are no any eye witness of the said incident. Applicant is not a habitual offender. The investigation is completed followed by charge-sheet therefore there is no need to keep the accused behind bar. With these among the grounds he prayed to release the accused on bail. He relied on the judgment in case of State of Rajsthan Vs. Walchand 1978 SCR (1) 535.

**05** On the contrary, Ld. APP for the State submitted that offence levelled against the accused is serious in nature. Accused has made confession wherein he admitted that he has committed murder of his father i.e. deceased. Therefore, there is strong prima facie case against the accused. That if the accused is released on bail his presence will not be secured for trial. He submitted that earlier bail application was rejected after filing a charge-sheet and there is no change in circumstance hence, application is liable to be rejected.

**06** I have gone through the submissions of both the parties. The FIR disclosed that it is lodged by the accused himself wherein he stated that he committed murder of his father. The accused also made a statement before Ld. JMFC Daund u/s 164 Cr.P.C. wherein he confessed the crime. Thus, there is that strong prima facie case made out against accused for offences u/s 302 of the IPC. The said offence is

serious in nature and punishable with the life imprisonment or death sentence. More so accused is appears to be Nomadic and hindering at various places for his livelihood therefore his presence would not be secured for trial if released on bail. Though it is submitted that charge-sheet is filed earlier bail application was rejected after filing of charge-sheet and there is no major change in circumstance. In case of State of Rajsthan Vs. Walchand applicant was on bail throughout the trial hence while considering the appeal he was released on bail. The ration is not applicable for reason that fact in case is different. Hence, in view of above facts and circumstances accused is not entitled for bail. Therefore, I proceed to pass following order:-

**ORDER**

Application (Exh.05) is rejected.

Date : 29.09.2022

(J.L. Gandhi)  
Additional Sessions Judge,  
Baramati.

**C E R T I F I C A T E**

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

Name of Steno : M.D. Renuse (Grade III)

Court Name : Mr. J.L. Gandhi, District Judge 2  
and Addl. Sessions Judge, Baramati,  
District : Pune.

Order Date : 29.09.2022

Order signed by P.O.on: 29.09.2022

Order uploaded on : 03.10.2022