

MHPU140013162024.



SESSIONS CASE No. 72/2024.

State of Maharashtra

Vs.

Pratap Vasant Kshirsagar

ORDER BELOW EXH. 7

This regular bail application has been filed by the applicant-accused under Section 439 of the Code of Criminal Procedure in connection with Crime No. 134/2023 registered for the offence punishable under Sections 302, 307, 452, 504 read with section 34 of the Indian Penal Code and under sections 39 and 45 of the Maharashtra Money Lending (Regulations) Act at Supe Police Station.

2] The prosecution case in nutshell is as under:

On 13.12.2023 Sagar Dilip Jagtap lodged report while he was under treatment in burn ward of Sassoon hospital, Pune that he does the work of agent for obtaining person loan, car loans etc. Prior to 05 months Santosh Chopade had given him Rs. 3,00,000/- with interest at the rate of 20%. Similarly, Santosh Chopade had also purchased one I-20 car in the name of Rakesh Sahu and further given to him for Rs. 3,70,000/-. He was paying the installments of the car. Santosh Chopade repeatedly demanding money. Prior to 02 days Santosh Chopade had assaulted his father Dilip Jagtap on account of money and took him to Pune. He had also got executed one notarized document in his favour of their land admeasuring about 01 acre. On 13.12.2023 at about 12.00 noon Santosh Chopade, Pratap Kshirsagar, Vaishali Bhosale, Jidnyasa Naikwadi and Pragati Hasgude

came to his house in their car. Santosh Chopade demanded Rs. 35,00,000/-, he replied him that he does not have money and therefore unable to give. They all started abusing him and took him to kitchen. They saw the bottle containing petrol which he had kept for his bike. At that time, Pragati Hasgude and Jidnyasa Naikwadi pour petrol from the bottle on his person, Vaishali Bhosale ignited the cooking gas and they pushed him on the gas. Thereafter, they all ran away. His clothes caught fire, he ran out of the house, other persons extinguished the fire and took him to rural hospital, Supe and from there to Sassoon hospital, Pune. Hence, the report.

3] The applicant-accused contended that he is innocent. He did not commit any offence. He falsely been implicated in this crime. No overt act has been attributed against him. Accused Nos. 1, 3, 4 and 5 are the main culprits. There is no motive or intention at his end for committing the offence. There are no any criminal antecedents. The Dying Declaration of the deceased is suspicious as his brother in law was accompanying him and the possibly of his tutoring cannot be ruled out. He had no previous financial transactions with the deceased. He is the only worker, working with accused Santosh Chopade and he drove the vehicle. Further, both the hands as well as tongue of the deceased were burn, which itself falsifies the prosecution story. Nothing incriminating has been recovered at his instance. F.I.R. is lodged after unexplained delay. None of the sections is attracted against him. Investigation is completed and charge-sheet has been filed. There are no criminal antecedents. His custodial detention is not required. He is

ready to abide by the conditions imposed upon him, if any. Hence, prayed to allow the application.

4] The Investigating Officer opposed the application by filing say at Exh. 18. It is contended that the offence is serious one. All the accused persons were harassing the deceased for money. There is Dying Declaration given by the deceased when he was under medical treatment. Further, there are eye witnesses of the incident. Previously all the accused persons have kidnapped father of the deceased and took him to Pune and executed some documents in respect of his land. There is four wheeler car which has not been recovered yet. The notarized document has not been recovered. Similarly, co-accused Nos. 1 and 3 are not yet arrested. Hence, prayed to reject the application. If released on bail, the accused may tamper the prosecution evidence, commit similar type of offence or may flee away. Hence, prayed to reject the application.

5] The Ld. A.P.P. opposed the application by filing say on the overleaf of the application itself. It is contended that the offence is serious one. All the accused person have conspired together, they came on the spot together and committed the offence. The deceased has specifically mentioned role of each accused in his Dying Declaration. Prior to three days of the incident all the accused persons along with present applicant-accused had been to the house of the deceased and they abducted his father. There are eye witnesses of the incident. The C.D.R. of the all accused persons have been obtained. There is strong evidence

collected against the accused. If released on bail, the accused may tamper the prosecution evidence, commit similar type of offence or may flee away. Hence, prayed to reject the application.

6] Heard learned Advocate Mr. M. S. Deshmukh for the applicant-accused, learned A.P.P. Mr. P. G. Joshi for the State and Ld. Advocate Mr. Y. C. Waghmare for the prosecution witnesses. I have perused the documents on record. It is pertinent to note that the report has been lodged by the deceased himself when he was under medical treatment. Specific role has been attributed against present applicant-accused that he accompanied with other accused persons at the time of both the incidents. The statements of witnesses have been recorded. The wife and father of the deceased are the eye witnesses of the incident. The postmortem notes shows that the deceased died due to complicated burns.

7] Ld. Advocate for the applicant-accused has submitted that there are various offences registered against the deceased himself and he was a man of criminal antecedents. In support of his submission he has filed on record C.I.S. details of three cases.

8] In support of his submission he has relied on ratios laid down in the following Case Laws:

- (i) *Jayamma Vs. State of Karnataka [2021 CRI.L.J.2900]*,
- (ii) *Nilesh Nivrutti Jadhav Vs. State of Maharashtra [2017 (1) ABR (CRI) 293]*,

- (iii) State of Maharashtra Vs. Arun Natha Sontake and others [2016 (1) ABR (CRI) 124],*
- (iv) State of Rajasthan Vs. Yusuf [AIR 2009 Supreme Court 2674],*
- (v) Mohd. Shoaib @ Chutwa Vs. State [Bail Appln. No. 2359 of 2021 dated 18th January, 2022 Hon'ble Delhi High Court],*

Except the ruling in case of Mohammad Shoaib cited supra, rest of the ratios are in respect of appeals after trial.

9] Ld. APP for the State has drew my attention towards C.D.R. report of present applicant-accused which shows his presence on the spot.

10] The Ld. Advocate appearing on behalf of prosecution witnesses i.e. wife of the deceased has submitted that all the accused have committed the offence in furtherance of their common intention. Specific role has been attribute against each of the accused. There are eye witnesses to the incident. Further, if the accused persons are released on bail there is threat to the life of prosecution witnesses. Hence, prayed to reject the application.

11] As discussed earlier, the specific role has been attributed against the present applicant-accused. There are eye witnesses to the incident. It is worth to consider that all the accused person went on the spot together. There is another incident of kidnapping of father of the deceased prior to the present incident. In that incident also names of the

accused has been specifically shown. The offence is serious one. There is ample evidence collected by the Investigating Officer against the accused person. Hence, considering all the facts and circumstances, nature and gravity of the offence, the application deserves to be rejected. Hence, the order.

ORDER

The bail application is rejected.

Date :- 06.05.2024.

(J. P. Darekar)
Additional Sessions Judge,
Baramati.

CERTIFICATE

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

Name of Stenographer : I. E. Deshmukh
stenographer (G-1)

Court Name : J.P. Darekar
Additional Sessions Judge,
Baramati, Dist. Pune.

Date of Order : 06.05.2024.

Order signed by
Presiding Officer : 06.05.2024.

Order uploaded on : 06.05.2024.