

: ORDER BELOW EXH.2 IN SESSIONS CASE NO.36/2021 :

1) This is an application filed by the accused Ram Nathu Jadhav under section 439 of the Code of Criminal Procedure, to release him on regular bail in connection with Crime No.24/2021 registered with Roha police station, for the offence punishable under sections 302, 324 of the Indian Penal Code.

2) According to the accused, he has been arrested by the police on 11.03.2021 and since then he is in custody. At present the police have filed charge-sheet. The death of deceased Kusum Bapu Waghmare has taken place as she has not taken medical treatment for her injuries. The injuries were not sustained due to sharp edged weapon. Those were simple injuries. The alleged beating was taken place on 09.03.2021 and death is occurred on 11.03.2021. As the injured did not take medical treatment and she has refused for the medical treatment, she died. This accused is innocent and has not committed any offence. He has been arrested only on suspicion. He is permanent resident of the address mentioned. He is not habitual offender. He will not flee away from justice and ready to abide the terms & conditions of the bail.

3) The prosecution has filed their reply to the application at Exh.3 and has strongly opposed the application on the ground that, the offence is of serious nature. The accused has handed over both weapons used in the offence i.e. Scythe and wooden stick. The offence is punishable with life imprisonment. If this accused has been released on bail, he will not be available for the trial. There is sufficient prima facie evidence against the accused. The prosecution is taking steps to

dispose of this matter as early as possible and there is also possibility that the accused will pressurize the prosecution witnesses. For these reasons, the prosecution has submitted to reject the application.

4) Heard Ld. Advocate Shri. M. N. Shinde for the accused and Ld. A.P.P. Shri. Y. A. Tendulkar for the State. Perused the documents on record.

5) The allegations against the accused are that deceased-Kusum was sister of complainant. Since last 5 years she was residing with the accused in live-in-relationship. Her husband and children were working elsewhere. On 09.03.2021. The relatives of the complainant informed her that the accused is beating her sister. The complainant visited to her sister on the next day. At that time, she saw the injuries sustained to her. Her sister Kusum has informed about the assault by the accused on the reason of suspecting her character. As the complainant has insisted to take medical treatment and has made arrangement to take her in the hospital, she has refused for the same, saying that she will not be survive. Thereafter, on 11.30 p.m. the complainant was informed that her sister Kusum is dead. Thereafter, the complaint was lodged against the accused.

6) According to the accused, now the investigation has been completed and there is no nexus between the death and alleged assault and the death was caused as the deceased has not taken medical treatment. The accused claiming that he has been involved only on suspicion and he has not connected with the offence.

7) On the other hand, according to the prosecution, the accused has committed serious type of offence. He has assaulted to

the deceased by scythe as well as stick and therefore, she has sustained injuries and ultimately on the next day, she succumbed to the said injuries. So, the accused is responsible for the death of the deceased.

8) The Post-mortem Report shows that there were Multiple injuries sustained on the body of the deceased. The probable cause of death is Cardio respiratory arrest with hemothorax with multiple contusions. It support the prosecution case about assault on the deceased. Though there are also contention that the deceased has refused to take medical treatment, but ultimately the injuries sustained to the deceased are the cause of her death. There is also recovery of the weapons used in the offence at the instance of accused. On perusal of the record, there is prima facie evidence against the accused, showing his involvement in the crime. So, the contention raised by the accused in this regard are not acceptable.

9) As it is clear that the offence is of serious nature. The deceased was residing with the accused in live-in-relationship. There are allegations that the accused assaulted deceased by taking suspect on her character. The medical report shows the physical assault is the reason for the death of injured and therefore, there is *prima facie* case against the accused about his involvement in the offence. So, considering the nature of offence and also considering the apprehension of the prosecution about the pressurizing the prosecution witnesses, I do not find the application filed by the accused for grant of bail, is sustainable. With this, proceeds to pass the following order :-

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: O R D E R :

- 1) The application at Exh.2 moved by the accused Ram Nathu Jadhav, under section 439 of the Code of Criminal Procedure, for regular bail, is hereby rejected.

(Dictated and pronounced in open Court)

Mangaon.
Date : 20.09.2021.

(Priya P. Bankar)
Additional Sessions Judge,
Mangaon-Raigad