

IN THE COURT OF DISTRICT JUDGE-1 & ADDITIONAL
SESSIONS JUDGE, PANVEL-RAIGAD
ORDER BELOW EXHIBIT 58 IN SESSIONS CASE
No.427/2019 (Old S.C.No.119/2018)
CNR NO.MHRG170027292019
(Dated 29/08/2020)

The applicant/accused – Ajinkya @ Avi Anant Shinde has preferred the present application successively u/s.439 of Cr.P.C. for grant of bail in C.R.No. I-291/2018 registered with Panvel City Police Station, u/sec.302, 324, 323, 504, 506 r/w.34 and 120-B of I.P.C.

2. Heard Ld.Adv.Miss. Sheetal Gaikwad for the applicant who submitted that, the applicant/accused No.1 has been arrested on 01/07/2018 on the complaint lodged by the deceased Shakil Salim Shaikh during his hospitalization after he suffered injuries by giving information that, on 30/06/2018, he had some altercations with the present applicant in respect of the payment of fare of rickshaw driven by the complainant Shakil and at that time, the present applicant was boasting his association with accused No.6-Rajesh Kaikadi. It has been further informed that, on the same day, at about 10.35 p.m, the applicant accompanied by other co-accused persons came back again and took fight with him in which the applicant assaulted by iron rod on his head and accused No.2-Baboo Kaikadi assaulted by knife on his abdomen, forehead and cheek. It has been further informed that, at the material time when his

mother and wife came to rescue him and tried to intervene, accused No.2-Baboo Kaikadi also assaulted his mother and thereafter, all the assailants ran away.

3. On the said information, the F.I.R was lodged and subsequently the applicant and other co-accused persons were arrested. After investigation, the charge-sheet is filed. Ld. Adv. submitted that, the applicant has been falsely implicated in the crime and he has no specific role assigned by the witnesses. Ld.Adv. submitted that, the bail applications filed by the applicant before this court as well as before the Hon'ble High Court have been rejected and the present application is filed on new grounds. Ld. Adv. submitted that, during the pendency of matter the other accused persons have been granted bail either by this court or by the Hon'ble High Court. Ld.Adv submitted that, though the place of incident is a public place, the investigation agency has recorded the statements of the relatives of deceased only. Ld.Adv. also tried to point out certain discrepancy in the statement of witnesses and submitted that, there is no corroborative iota of evidence against the present applicant.

4. Ld.Adv. submitted that, the applicant is a chef having

family responsibility and since his arrest he is behind bar and his family is suffering. Ld.Adv. submitted that, there are no complaints from the prosecution witnesses regarding the tampering of evidence by the co-accused persons who are granted bail. Ld.Adv. submitted that, the applicant can be released on bail on the ground of parity and prayed accordingly.

5. Ld.APP Shri.Bhopi resisted the application and submitted that, the earlier bail applications filed by the applicant prior to as well as after filing of charge-sheet have been rejected on merits and there are no new grounds agitated by the applicant. Ld. A.P.P submitted that, this court as well as the Hon'ble High Court has consistently observed the role of the applicant in the present crime and considering the gravity of offence has rejected his prayer for bail. Ld.APP submitted that the other accused persons have been granted bail after considering their specific role and as such, ground of parity will not be applicable for the applicant. Ld.APP also pointed out the criminal antecedents of the present applicant as well as certain communications from the prison authorities informing the breach of peace and law and order in the prison by the applicant and submitted that, the conduct of the applicant apprehends the tampering of evidence in the matter.

6. Upon hearing the Ld.Advocates and after going through the charge-sheet in consonance with the submissions of the Ld. Advocate of the applicant as well as after going through the earlier bail orders, this court is of the view that there is no new ground agitated by the applicant for consideration afresh on the successive bail application. It is to be noted that, the accused persons who are released on bail either by this court or the Hon'ble High Court have been granted bail considering their alleged role assigned by the witnesses and their involvement in the crime. Needless to mention that, as observed in earlier bail applications, there exists specific role of the applicant alongwith motive behind the crime corroborated by eye witnesses.

7. Ld.Adv. also pointed out that, due to lock down situation, the accused persons are not attending the court and even the under-trial prisoners are not brought to the court on the due dates and as such, the matter is fixed for hearing. It is unfortunate that, due to circumstances prevailed all over the world, as a precaution of outbursting the disease, the court working hours have also been curtailed. It is to be mentioned that, even the application forwarded by the jail authority for grant of interim bail has been rejected by this court in the

background of gravity of offence. The present situation is not in the hands of courts.

8. In the circumstances, though this court has all sympathy upon the conditions of the family members of the applicant, considering his involvement in the crime and the criminal antecedents to his discredit, the applicant cannot be enlarged on bail. Hence, order.

ORDER

1. Application Exhibit-58 is rejected.
2. Application is accordingly disposed of.

(Directly dictated in open court on the office computer.)

Panvel
Date :-29/08/2020.

(R. G. Asmar)
Additional Sessions Judge,
Panvel-Raigad.

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

Name of the Stenographer	P.S.Mhatre
Name of Court	Addl. Sessions Judge, Panvel-Raigad
Date of Dictation	29/08/2020
Order signed by the P.O. on	29/08/2020
Order uploaded on	