



Order Below Exh.166
(In Session Case No.427/2019)

1. Application is filed by accused No.1 **Avi @ Ajinkya Anant Shinde** u/s.439 of Criminal Procedure Code, 1973 (in short "CrPC) for bail.
2. Notice was issued to Prosecution & victim. Say is filed by Prosecution at Exh.170.
3. Heard Ld. Advocate Mr. Vikas Kolekar for accused and Ld. Addl. P. P Smt. D. R. Patil for the State of Maharashtra.
4. This is third bail application of accused. First bail application was decided on 29/08/2020. Second bail application was decided on 21/03/2022. These two bail applications were decided by my Ld. Predecessor. Accused had filed bail application before Hon'ble Bombay High Court which was numbered as B.A.No.1483/2009 and same was rejected on 20 December 2019. This application is filed on same grounds which were mentioned in previous bail applications.
5. In present matter, deceased was injured due to assault by accused therefore, he was shifted in the hospital. His statement was recorded and on basis of that statement, FIR was registered. Later on, deceased scummed to injuries therefore, section 302 of IPC was added.
6. Facts of the case are that present accused and deceased had some altercation on ground of payment of fare of autorickshaw



when accused was travelling in autorickshaw of deceased. Later on, accused met with deceased and asked for answers for his acts. On the same day, at about 10.35 pm present accused and other accused went at the house of the deceased and called him out. Present accused then started quarrel with deceased and during that time he assaulted deceased on his head with iron rod. That time another accused gave knife blows to deceased on his abdomen, forehead and cheek. When assault was going on, wife and mother of deceased tried to intervene but they were also assaulted. After incident, all the accused ran away from the scene.

7. Ld. Advocate for accused submitted that previous bail applications of accused are rejected and accused is behind bars for substantial period of time. Other accused are on bail. Present accused had only hit iron rod but deceased has not died due to head injury and reason of death is stab injury. During argument Ld. Advocate narrated the facts which occurred before the incident but those are not reproduced as at present stage there is no need to reproduce those facts as previous bail applications are decided on merit and my Ld. Predecessor have considered those facts. So also, I have considered those facts.
8. In support of argument, Ld. Advocate for present accused has relied upon judgment of Hon'ble Supreme Court in **1. State of Kerala Vs. RANEEF. (Cri.Appeal No.3/2011 decided on 03/01/2011), 2. State of Maharashtra & Ors. Vs.**



Vashishtha Rambhau Andhale (Appeal (CRL.) 1087/2007 decided on 17/08/2007), 3. Vivek Kumar Vs. State of Uttar Pradesh, AIR 2000 SC 3406 B, 4. Vinod Bhandari Vs. State of Madhya Pradesh (Cri. Appeal No.220/2015 Arising out of SLP (CRL.) No.7506/2014, decided on 04/02/2015), 5. Sanjay Chandra Vs. CBI (Cri.Appeal No.2178, 2179, 2180, 2181 & 2182/2011 decided on 23/11/2011) & Prabhakar Tewari Vs. State of Uttar Pradesh &Anr. (Cri.Appeal No.153/2020 Arising out of SLP (CRL.) No.9209/2019, decided on 24/01/2020).

9. He has also relied upon judgment of Hon'ble Bombay High Court in *Shobhit @ Ajju @ Ajay Babu Suryavanshi Vs. The State of Maharashtra (Bail Appln. NO.1974/2023 decided on 17/10/2023)*, judgment of Hon'ble Calcutta High Court in *Abdul Basar Laskar Vs. The State of West Bengal (C.R.M. No.3698/2004 decided on 19/11/2004)*, judgment of Hon'ble Madras High Court in *Krishna Reddy Vs. The State & Anr. (Cri.O.P. No.18724/2006 decided on 23/08/2006)*, judgment of Hon'ble Delhi High Court in *Jagdeep Singh @ Vicky Vs. The State of NCT of Delhi (Bail Appln.No.2629/2007 decided on 12/09/2008)*. I have considered all judgments produced on record by accused, at the time of passing of this order.
10. Per contra, Ld. Addl P.P submitted that there was dispute between accused and deceased. There was pre-concert between the accused and they have executed their plan.



Deceased has stated that iron rod was hit on his head by present accused. Eye witnesses have also stated that iron rod was hit by present accused. Accused has antecedents. Prima-facie case is there. His previous bail applications are rejected on merit. Even the Hon'ble Bombay High Court considering his role has rejected his bail application. Accused may pressurize the witnesses. He may abscond. Prosecution is ready to conduct the trial speedily. As matter was frequently transferred, no progress was made.

11. As stated aforesaid, this is third bail application and previous bail applications of this accused are decided on merit. By this bail application, grounds of bail given in the previous bail applications are reproduced. Even the argument is similar. My Ld. Predecessor while deciding bail applications have observed that role of present accused cannot be segregated and death of deceased is cumulative effect of injuries caused by the accused. I do agree with the view taken by my Ld. Predecessor and there is no force in the argument of Ld. Advocate for accused that head injury is not the cause of death.
12. No doubt, accused person is behind bars for long time but he is not behind bars in this particular case and other cases are also pending against him in Thane District. Only on ground that other accused are on bail, present accused cannot be released on bail. Role of each accused is different.
13. If material on record and statement of eye witnesses are considered then involvement of accused in the crime has come



on record. Previous bail applications of accused are rejected on merit. There is no new ground for this application. This case is transferred to this Court on 30 October 2023 and attempt is made to speed up the trial. If accused is released on bail then witnesses may not come forward to depose against accused which may affect the trial. Considering all these facts, I am of the view that accused cannot be released on bail. Application is devoid of any merit and without new ground therefore, same is liable to be rejected. For these reasons, I pass following order.

:: ORDER ::

1. Application is rejected.
2. Accused be informed through E-mail about rejection of his bail application.

Panvel,
Date: - 07/02/2024

Sd/-
(S. C. Shinde)
Addl. Sessions Judge
Panvel, Dist.-Raigad