



CNRNO.MHSI010001552022

Order below Exh.29 in Sessions Case No.13/2022
(State of Maharashtra Vs. Vinayak Tangsali)

1] This is an application filed by the applicant Vinayak @ Kushal Nagesh Tangsali for regular bail u/s.439 of Cr.P.C. in connection with Crime No.300/2021, registered with Sawantwadi Police Station for the offence punishable under Sections 302, 397, 201 of Indian Penal Code.

2] Heard Ld. Adv. S.B. Kolgaonkar for applicant and Ld. APP G.M. Todkari for the State. Investigating Officer was present at the time of hearing. Perused the documents filed alongwith chargesheet and say filed by Investigating Officer.

3] It is the case of the prosecution that, the unknown person entered on 30/10/2021 between 7.00 p.m. to 31/10/2021 before 8.30 in the house of deceased, two old feeble women came to be murdered by cutting their throat at night time, during investigation mark of footwear of present applicant/accused, were found due to which he was served with the notice and called for interrogation in the police station, applicant/accused was then absconded and arrested from New Mumbai on 13/11/2021, the weapon of offence knife and ingot of 8 grams gold came to be recovered at the instance of applicant, therefore, FIR came to be registered.

4] On perusal of record it appears that, earlier three bail applications filed by the applicant were rejected before and after filing of chargesheet. The Prosecution is relied on FBI report. Now the report

of FBI is received by the prosecution and hence, this successive bail application is maintainable as there is change in circumstances.

5] On perusal of chargesheet it appears that whole case of prosecution is based on circumstantial evidence and prosecution is relying mostly on two circumstances i.e. footwear print is matched with a footwear seized from applicant and ingot of 8 grams gold came to be recovered at the instance of applicant.

6] On perusal of FIR it is mentioned that first informant, applicant and some others entered in the house as to see what was happened. It is pertinent to note that on the spot panchanama, it is mentioned that, '**footprints**' of human body was found, whereas police officer Taufik Gani has stated that '**footwear**' print was found. So, it appears that prosecution is not sure whether '**footprint**' found or '**footwear**' print found on the spot of incident. Moreover, as applicant went on the scene of occurrence alongwith first informant and others. So, there is every possibility that his 'footwear' print will be found there and hence, same can not be treated incriminating circumstance against him.

7] As far as recovery of ingot is concerned, it appears that applicant is goldsmith by profession and in his memorandum statement he has not stated that he prepared ingot by melting said gold chain. It is pertinent to note that no blood stains were found either on the footwear of applicant or on the knife came to be recovered at the instance of applicant. Whereas story of the prosecution is that blood stains '**footwear**' print was found on the spot. On perusal of spot panchanama, it appears that one blood stained scythe was found. Whereas it is the

case of prosecution that accused committed murder by using knife, which appears to be kitchen knife used for household purpose. No prudent person would keep the said knife in utensil rack in the kitchen. So, prima-facie alleged recovery of knife at the instance of applicant appears to be doubtful. It is pertinent to note that it is not the case of prosecution that applicant was lastly seen in the company of deceased persons or there is any enmity between applicant and deceased.

8] It is pertinent to note that applicant accompanied first informant in the police station while lodging complaint. If he had committed crime he would not have gone to the police station alongwith first informant. It is the story of prosecution that applicant committed murder as he was in need of money. Whereas it appears that *Karnafule* (earrings) of deceased were not stolen. So, prima facie it does not appear that said murder came to be committed on account of money. There is statement of one Sankalpa, who stated that before the incident, he paid Rs.30,000/- to the applicant and applicant has not borrowed any money from him. It is pertinent to note that clothes of applicant and footwear came to be seized on 30/10/2021 and in spite of suspicion on him by the investigating officer, he was not arrested on that day and he was allowed to go home. If investigating officer was having suspicion on him for committal of such serious crime, then naturally question will arise as to why Investigating Officer allowed applicant to go home and as to why he did not arrest him immediately. It is pertinent to note that no explanation whatsoever, has come on record to that effect.

9] This court is conscious about the fact that applicant is facing trial for the serious offence of murder but equally it is true that applicant can not be put behind the bar for uncertain period on the basis

of circumstances, which have been discussed above, as prima-facie said circumstances appears to be doubtful. Applicant is permanent resident of Sawantwadi Taluka, he is only bread-earner, having wife and children, there is no criminal antecedent, he is in jail since last 2 years, trial is yet to be started, which will take its own time to conclude and no fruitful purpose would be served by detaining him behind the bar any more.

10] It is pertinent to note that view expressed by this court is restricted for the purpose of considering present bail application and applicant is not permitted to take any advantage of the same, at the time of trial. Considering all the facts and circumstances, case is made out for grant of bail. Hence, I proceed to pass the following order:-

-:-O R D E R -:-

- 1) Application is allowed.
- 2) Applicant Vinayak @ Kushal Nagesh Tangsali be released on bail in C.R.No.300/2021 registered with Sawantwadi Police Station for the offence punishable under Sections 302, 397, 201 of IPC on executing one solvent surety of Rs.50,000/- and P.R. Bond of like amount.
- 3) Applicant shall mark his presence in the Police Station Sawantwadi once in a month between 10:00 to 11:00 for the period of one year, after he is released from Jail.
- 4) Applicant shall not tamper the prosecution witnesses and shall not indulge in any criminal activities.
- 5) Applicant shall furnish cell numbers of his two close relatives.
- 6) Applicant shall furnish his address with documentary proof and in case of change of his address in future, he is directed to inform the court about the same.

- 7) Applicant is directed to attend the court dates without fail and if there is consecutive three defaults, then APP is at liberty to file application for cancellation of bail.

Date : 03/11/2023

Sd/-xxx
(S. J. Bharuka)
Sessions Judge,
Sindhudurg-Oros.