

MHSN040000662024



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Special Case No. 03/2024

The State of Maharashtra ... Complainant.
Vs.
Ankit Naresh Rathaur & anr. Accused.

ORDER BELOW EXH. 22

1] This is second application for regular bail under section 439 of Cr.PC in connection with Crime Reg. No. 285/2023 registered by Ashta Police station for the offences punishable under section 302,504 r.w. 34 of the Indian Penal Code & sec.3(2)(va) of SC and ST (Prevention of Atrocities) Act.

2] Perused the application and say given by State at Exh.23. Heard learned Advocate Kharat for the applicant and learned A.P.P. Shri. R.S. Patil for the State.

3] Advocate Shri. Kharat submitted that earlier bail application was rejected before filing of the chargesheet. Now the investigation is over, chargesheet is filed and case is committed to this Court. It is change in circumstance warranting fresh view. According to learned advocate if FIR

and statement of eye witnesses are seen, it is clear that incident occurred in a hit of moment. It was not preplanned attack, accused was under the influence of alcohol. He was not understanding consequences of his act. There was single blow. In short he had no intention to kill the deceased. Therefore, it is the case covered by part II of 304 of the Indian Penal Code and prima facie no case for the offence under section 302 of Indian Penal Code is made out. He prayed for bail.

4] While opposing bail application Learned A.P.P. argued that the offence is serious. The accused was armed with knife. He inflicted fatal blow causing death of Vaibhav. There is direct evidence available on record showing involvement of accused in the crime. He prayed for rejection of the application.

5] It is clear from the documents on record that the FIR is filed by sister of deceased namely Alaka Ghaste. Admittedly she is not eye witness of the incident. It is clear from the FIR that deceased Vaibhav was her younger brother and accused No.1 Ankit and accused No.2 Pratik were friends of the deceased Vaibhav. On 20/11/2023 at around 6.00 p.m. Vaibhav went out and at around 9.00 p.m. informant received information that there was quarrel

between Vaibhav on one side and accused No.1 Ankit and accused No.2 Pratik on other side in Sunshine Beer bar. Accused No.1 Ankit had inflicted blow of knife causing death of Vaibhav. At the relevant time deceased and two accused were alongwith other two friends namely Raohit Ghaste and Swarup Ashtekar and from Rahit informant came to know as to how exactly incident took place. She gave report to the police and crime came to be registered at around 4.58 hours on 21/11/2023.

6] It is clear that two friends of deceased Vaibhav namely Swarup Ashtekar and Rohit Ghaste were present at the spot of the incident at Sunshine Beer Bar. From the statement of Rohit Ghaste and Swarup Ashtekar it is clear that both accused asked Vaibhav to buy liquor but Vaibhav refused and asked accused to first bring chicken 65 from outside. Because of same accused No.2 Pratik got annoyed and abused Vaibhav and asked accused No.1 Ankit to kill him. Thereafter accused No.1 Ankit with the help of knife with him inflicted blow on the chest of Vaibhav. Vaibhav received bleeding injury he was taken to the hospital. Thus it is clear from the statement of eye witnesses Rohit as well as Swarup that it was accused No.1, who had inflicted fatal blow of knife on the chest of the Vaibhav. The Post Mortem notes shows the cause of death was 'death due to

hemorrhagic shock due to stab injury'. The material on record is sufficient to show that deceased Vaibhav died because of the fatal blow inflicted by Ankit on the chest of deceased Vaibhav .

7] There is direct evidence showing involvement of accused No.1 Ankit in the crime. It was he, who had inflicted the blow. Though accused No.2 Pratik is released on bail, accused No.1 can not claim parity as the role played by both accused is different. At this stage it is not desirable to go into question as to whether accused No.1 had no intention to kill deceased and whether offence under section 302 of I.P.C. is made out or offence under section 304 part II of I.P.C. It is clear from the statement of eye witnesses that it was accused No.2 Pratik who asked accused No.1 Ankit to kill deceased Vaibhav and then accused No.1 inflicted the fatal blow on the chest of deceased. Prima facie it is sufficient to show that accused No.1 had an intention to kill deceased Vaibhav. Considering the seriousness of the crime and the material against accused which is showing his involvement in the crime, I find no case is made out for grant of bail. Hence the order-

ORDER

- 1] Bail application Exh.22 filed by Ankit Naresh Rathaur in connection with Crime No.285/2023

registered by Ashta Police Station under section 302, 504 r.w. 34 of I.P.C. and sec. 3(2)(va) of SC and ST (Prevention of Atrocities) Act is rejected.

- 2] Since accused No.1 Ankit Naresh Rathaur is under trial prisoner and he is not produced today from Jail, issue production warrant to Jail for production of accused No.1 so that a charge shall be framed.

Date : 12/06/2024.

(A.Y. Thatte.)
Additional Sessions Judge and
Special Judge, Islampur