

Order passed below Exh.18 in Sessions Case No.76/2022**CNR Number:MHSN040008932022**

(State of Maharashtra Vs. Ganesh @ Barkya Madhukar Chavan, etc.2)

Accused No.1 has filed this 2nd bail application under Section 439 of the Code of Criminal Procedure in Crime No.98/2022 registered at Kasegaon Police Station for offences under Section 302 read with 34 of I.P.C. Accused was arrested on 31/05/2022 and thereafter, he was remanded to Magisterial custody.

2) It is the case of prosecution that, complainant Prakash Hindurao Salunkhe has lodged report on 31.05.2022 and contended that, on 30/05/2022 his mother and son Pravin were present in his home. At about 06.00 p.m. His son Pravin left the house. When he was sitting near the grocery shop of Sardar Mulla, he saw that his son was talking with his friends. At the time of dinner, his son did not come, therefore he again went to the shop of Sardar Mulla. But, he was not present there. He slept at about 10.15 p.m. At about 02.00 p.m. he got up for natural call, but his son was not returned. On the next day his nephew Subham Salunkhe came to his house and asked, whether his son has returned ? He narrated that, his son, accused and Ganesh Pethkar were quarreling in front of wine shop of Pradip Chavan at 09.00 p.m. After some time, one of his relatives telephoned Shri. Ashok Salunkhe and informed that, his relative was found dead near the Ghogavati stream, Wategaon. Surekha Salunkhe informed him about the said information. Therefore, he alongwith his family members went to Ghogavati stream at 09.00 a.m. and saw the dead body of deceased Pravin. He was assaulted prior the death. Therefore, he lodged the report against unknown persons.

3) The learned Advocate for applicant has submitted that applicant is labour. He is innocent and falsely implicated in this crime.

Applicant has not committed any offence. Prima-facie there is no case made out against the applicant. There is no specific over acts attributed to the accused to attract the provisions of the offences alleged. The investigation is completed and charge-sheet is filed. Nothing remained to be investigated or interrogated. Applicant is permanent resident of Wategaon, Tal.Walwa, Dist. Sangli. He is law abiding person. His family is depending on him. He is ready and willing to furnish surety and ready to abide all such terms and conditions as may be laid down. He is arrested on 31/05/2022 and thereafter he is in MCR. Therefore, accused prayed that he be released on bail.

4) The Investigating Officer through the learned A.P.P. has filed say at Exh.19 and opposed the application on various grounds and contended that offence alleged is of serious in nature. If accused is released on bail, he will not remain present for dates and there is possibility of tampering with witnesses and repetition of similar offence. He has murdered son of complainant on account of trifle reason. If He is released on bail, there will be possibility of threatening eye witnesses. Therefore, application be rejected.

5) Heard learned APP for State and learned counsel for applicant/accused and perused application, say of learned APP, and police papers on record.

6) It appears from record that Accused No.1 is having permanent place of residence at Wategaonwadi, Wategaon, Tal.Walwa. Considering the above facts and circumstances of the present case, in my opinion, no purpose will be served by further detaining accused No.1 in jail. He is ready to abide by the conditions. The charge-sheet is filed on 19/08/2022. The charge against both the accused was framed on 09/12/2022 and since matter is pending for hearing. There is no material on record to show that accused No.1 will use his liberty to

subvert justice or tamper with the evidence. In this situation the objection of prosecution regarding threatening to the witnesses or informant, tampering with evidence and repetition of similar offence can be answered by imposing stringent conditions. Considering the above reasons, accused is entitled for grant of bail with certain conditions. Hence, I proceed to pass the following order.

ORDER

1. Application (Exh.18) is allowed.
2. Accused No.1 Ganesh (Barkya) Madhukar Chavan be released on bail on his executing P.R. Bond in the sum of Rs.1,00,000/- (Rs. One Lac only), with one or two sureties in the like amount for the offences punishable under Section 302 read with 34 of Indian Penal Code.
3. Accused No.1 shall not intimidate, influence or tamper with the prosecution witnesses and evidence.
4. Accused No.1 shall not indulge in similar type of offence or any other offence.
5. Accused No.1 shall remain present before the Court on each date.
6. Accused No.1 shall not enter the village Wategaon, Tal. Walwa, till disposal of this case.
7. Failure thereof shall result in giving right to the prosecution to move for cancellation of the bail.

(Jayshri M. Pardeshi)

Date : 27/04/2023.

Additional Sessions Judge, Islampur.

CERTIFICATE

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

Name of the Stenographer : J. R. More, Steno, (Grade-I)
Court Name : Adhoc District Judge – 1 & Addl.
Sessions Judge, Islampur.
Date : 27/04/2023.
Signed by P.O. on : 27/04/2023.
Uploaded on : 27/04/2023.