

Order passed below Exh.28 in Sessions Case No.76/2022
CNR Number:MHSN040008932022
(Mohan (Balu) Sahebrao Chavan Vs. State of Maharashtra)

This is an application moved by the accused No.2 for grant of bail under Section 439 of the Code of Criminal Procedure in C.R. No.98/2022 of Kasegaon police station for the offences punishable under Section 302 read with 34 of IPC. The say of I.O. and learned APP has been called and the same has been filed by them below Exh.29.

02. Perused the application and say. Heard respective advocates at length.

03. As per the contents of prosecution case the complainant Prakash Salunkhe lodged report to Kasegaon Police Station alleging death of his son Pravin Salunkhe. He lodged report against unknown persons. However, during course of investigation it revealed that the deceased was lastly seen with the accused Nos. 1 & 2. They had drinks together in which there was exchange of hated arguments. The alleged incident took place near sugar factory road. The accused persons beaten the deceased by fist blows, as well as sugar cane sticks and stones which resulted serious injuries causing his death. Therefore, the offence under Section 302 of I.P.C. came to registered and the charge-sheet is filed in the Court.

04. The learned Advocate for accused made submission that, the accused No.2 is innocent and falsely implicated in this case. There is no intention or motive in the commission of offence. The accused is involved in the case merely on the basis of suspect and there is no any cogent or convincing evidence against him. The entire case of prosecution is based on circumstantial evidence and there is no direct evidence against the accused. The prosecution failed to make out case

against accused persons. The investigation is complete and charge-sheet is filed. Accused No.2 is permanent resident of Wategaonwadi, Wategaon, Tal.Walwa and also he does not have any criminal background. Accused is law abiding person and is only earning member in his family. He undertake not to abscond or tamper with the prosecution evidence. He is ready to abide with all conditions, if imposed while granting bail. Hence, learned Advocate for accused prayed for granting bail to the accused.

05. Learned APP has opposed the bail application on the ground that, offence is of serious nature. There is every possibility of threatening of prosecution witnesses and tempering with the prosecution evidence. The applicant will abscond, if released on bail. Hence, the accused is not entitled to be released on bail.

06. It is pertinent to note that, in the present matter charge-sheet is filed on 19/09/2022. The application for bail moved by accused No.1 earlier came to be rejected on 01/10/2022. However, later on accused No.1 has been released on bail vide Exh.18 on dated 24/04/2023. This is the first application of accused No.2 for grant of regular bail. So far as the progress of trial is concerned, it reveals that the charge has been framed against both the accused persons on dated 09/12/2022. The record shows that C.A. report is still awaiting and though charge is framed, actual trial is yet not started. The period of six months is over, but witness has not been examined by the prosecution, though sufficient opportunity is given. It transpires from said circumstances that there is very meager possibility of completion of trial in the near future in speedy manner. The accused No.1 is already released on bail. The prosecution has not substantiated the fact that the accused will flee from justice, if released on bail. The accused No.2 is resident of Wategaonwadi, Wategaon Tal.Walwa and he has undertaken

to remain present on every fixed date of trial and co-operate with the prosecution. The accused No.1 is already released on bail. Therefore, the accused is also entitled for the parity. The accused is ready and assured that, he will not tamper with the prosecution witnesses. In said situation, I hold that there is no material on record to show that, the accused will misuse his liberty to subvert justice or tamper with the prosecution witnesses. The accused is ready to abide by all the conditions, if imposed by the Court while granting bail. In said circumstances, I hold that the ends of justice requires the grant of application for releasing the accused No.2 on bail subject to certain conditions. Accordingly, I proceed to pass following order ;-

ORDER

1. Application is allowed.
2. Accused No.2 Mohan (Balu) Sahebrao Chavan in C.R.No.98/2022 of Kasegaon Police Station, be released on bail on his executing P.R. Bond of Rs.1,00,000/- (Rs. One lac only), with two sureties in the like amount for the offences punishable under Section 302 read with 34 of IPC.
3. He shall not threaten, influence or tamper with the prosecution witnesses and evidence.
4. He shall not indulge in similar type of offence or any other offence.
5. He shall remain present before the Court on each date.
6. Failure thereof shall result in giving right to the prosecution to move for cancellation of the bail.

Date: 20/06/2023.

(A. H. Kashikar)
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 : 20/06/2023.
Signed by P.O. on : 20/06/2023.
Uploaded on : 20/06/2023.