

IN THE COURT OF ADDITIONAL SESSIONS JUDGE, WASHIM.

S.T. No.73/2024

Gaurav +1 x State

Order below Exh.17

[Passed on 10/12/2024]

The applicants/accused have filed this bail application under Sec.483 of B.N.S.S. Washim City police arrested the applicants/accused in Crime No.503/2024 for the offence punishable under Sections 103(1), 189(2), 189(4), 190, 191(2), 191(3) of B.N.S., 2023.

2. Heard Ld. advocate for the applicants/accused and Ld. APP for the State. Perused the charge-sheet. The informant has filed objection to this bail application at Exh.20 & at Exh.21. Heard Ld. advocate for the informant.

3. The Ld. advocate for the applicants/accused submitted that it is mentioned in the police statement of so called eye witness Yogesh Kadam that applicant/accused Gaurav was with him on his motorcycle and he dropped him near Balaji Book Depo and then Gaurav went where the quarrel was going on. He submitted that in police statement Yogesh Kadam has not stated against applicant/accused Gaurav. He submitted that Yogesh Kadam in his police statement stated that applicant no.2 Vishvesh gave slap to deceased. Except that no allegations are made by Yogesh Kadam in his police statement against applicant/accused no.2 Vishvesh. He submitted that other eye witnesses i.e. Rajesh Rambhau Gadekar, Bhushan Shankar Thakre, Suresh Waman Ghuge, Hanuman Arjun Aru have stated in their police statement that some 7 to 8 unknown boys were assaulting one boy by fist and slap. They have not stated name of any of the applicants/accused. The investigation officer has not conducted the identification parade. He submitted that statement

of Yogesh Kadam and other so called eye witnesses were recorded u/s 183 of B.N.S.S.2023 and in said statements including Yogesh Kadam none of the eye witness stated about the alleged incident favourable to the case of prosecution. He submitted that charge-sheet is filed against accused and there is no prima-facie evidence against the applicant/accused. On these grounds he prayed that the applications be allowed.

4. On the other hand the Ld. APP and Ld. advocate for the informant submitted that the applicants/accused alongwith other co-accused made conspiracy in U & Me Cafe and then all the accused had gone to Bibekar Hospital where the deceased was working and before the staff of Bibekar Hospital i.e. Godavari Ghuge, Priyanka Chatur, Datta Kakde, Vishal Gawali the accused persons beat deceased. Then again before Balaji Book Stall the accused persons beat deceased and then before Pratik Rubber Shop they again assaulted the deceased and killed him. He submitted that there is ample evidence to show that the applicants/accused alongwith other accused formed unlawful assembly with object to kill deceased and in furtherance of their common object they killed the deceased. He submitted that there is CCTV footage and other evidence. He submitted that the investigation officer has submitted CCTV footage in sealed pocket in Court and he prayed that before Ld. advocate for accused and Ld. APP Court should play the said CCTV footage and verify the reality. He submitted that the statement of eye witness Yogesh Kadam is prima-facie sufficient to show that accused are involved in the crime. He submitted that if the accused persons are released on bail then they will put pressure on the informant and other prosecution witnesses. On these ground both of them prayed that application be rejected.

5. It is case of prosecution that on 29/08/2024 the applicants/accused alongwith other co-accused formed unlawful assembly and killed deceased Rahul Wagh. The motive of the crime is that accused Vikram Ghongde was asking deceased Rahul to delete his and his female friend photographs from his mobile phone.

6. I have perused the charge-sheet. It is in the police statement of witnesses Rajesh Rambhau Gadekar, Bhushan Shankar Thakre, Suresh Waman Ghuge, Hanuman Arjuna Aru that some 7 to 8 unknown boys were assaulting one boy by fist and slap. They have not identified the applicants/accused. Investigation officer has not conducted test identification parade. It explicit from the police statement of Yogesh Kadam that accused Vishvesh Lengute gave slap to deceased. Except that there are no allegations against him in the statement of said eye witness. Eye witness Yogesh Kadam in his police statement stated that applicant/accused Gaurav was sitting on his motorcycle as a pillion rider and he dropped him at Balaji Book Depo but he has not stated anything against applicant/accused Gaurav. I have perused the copy of statements of witnesses Godawari Bhagwan Ghude, Priyanka Pradip Chatur, Krushnna @ Shrikisan Dayaram Kale, Kisan Ashok Gawali, Dattatraya Waman Kakde. Dattarao Ganesh Deshmukh, Rajesh Gadekar, Bhushan Shivshankar Thakre, Hanuman Arjuna Aru, Sagar Vitthal Sawant, Yogesh Anil Kadam and Suresh Waman Ghuge recorded u/s 183 of B.N.S.S.2023 by Magistrate Washim. Their said statements are prima-facie different from their police statements.

7. The Ld. advocate for the informant has made prayer to play the CCTV footage which was submitted by I.O. in pen-drive in sealed condition in Court. However, at this stage if the CCTV footage is played before Court and Ld. advocate for the accused, Ld. APP and informant

then question is who will identify the person seen in the CCTV footage and Court and Advocate for the accused, Ld. APP and informant cannot become witness and cannot take the task to identify the culprit/accused on the basis of said CCTV footage. Hence, a prayer of Ld. advocate for informant is not practicable.

8. Considering all the above aspects I am of the view that the applicants/accused are entitled to be released on bail. Hence, I pass the following order.

ORDER

1. Application is allowed.
2. Applicant/accused no.1 Gaurav Vinod Gawali and no.2 Vishvesh Madhav Lengute shall be released on bail on their executing PR. Bond of Rs.50,000/- each with surety in the like amount, in Crime No.503/2024 for the offence punishable under Sections 103(1), 189(2), 189(4), 190, 191(2), 191(3) of B.N.S., 2023, registered with Washim City police station.
3. Applicants/accused are hereby directed not to put pressurize on the witnesses and not to tamper the prosecution evidence.

Date : 10/12/2024

(N.R.Pradhan)
Additional Sessions Judge, Washim.

CERTIFICATE

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

Name of Stenographer	:-	R.K.Pawar, Stenographer (Grade-I)
Name of Court	:-	District Judge-1 and Additional Sessions Judge, Washim.
Date of Judgment/ Order	:-	10/12/2024
Judgment/Order signed by the Presiding Officer on	:-	10/12/2024
Judgment/Order uploaded on	:-	11/12/2024