

ORDER below Exh.22.

(Passed on 14th day of July, 2016)

1 This is the bail application filed by the applicant for grant of regular bail under sec.439 of Cr.P.Code in connection with crime No. 352/2015 under sections 147,148,149,323,326,307 & 302 of I.P.C. registered with P. S. Wadgaon road, Yavatmal.

2 Heard the learned counsel for applicant/accused Mr. A.J.Tagale and the learned A.P.P Shri. A.A. Mohod, for state.

3 The P.S.O. Wadgaon road registered offence vide Crime no.352/15 for the offence punishable under sections 147,148,149,323,326,307 & 302 of I.P.C. registered against the accused Kalu @ Ganesh Tapariya applicant and others. On the basis of report lodged by complainant Buddu Gaurve alleging that in the flower market on the day of the incident complainant told accused Kallu not to sit on the flower bag, due to this 9 to 10 persons alongwith accused formed unlawful assembly and beat complainant by fist and blows due to which he sustained injuries. The complainant was accompanied Subhan Gaurve who sustained injuries and admitted in Hope Hospital, Nagpur. Accordingly offence u/s 307 of I.P.Code was registered against the accused persons, but later on Subhan died on 14-11-2015 therefore, offence u/s 302 of IPC was added.

4 Read the application. It is argued on behalf of the applicant that there is no single word in FIR against the applicant. The assault is by stick and the said stick was recovered from the accused no.1.

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There is no single allegations against the accused applicant nor any seizure of weapon. Investigation is completed. Charge sheet is filed. The other accused are released on bail. Applicant is ready to abide by conditions. Hence, prayed for bail.

5 The learned A.P.P. opposed the application on the ground that the applicant is involved in the said crime. The statement of witnesses clearly shows his involvement. His name in the FIR is not mentioned, it does not mean that he is not involved in the offence. There is act of all accused in the said incident and the applicant has played active part. Offence is serious, if the applicant is released on bail, he may tamper the prosecution witnesses. Considering the nature of offence bail application be rejected.

6 Perused the application, case papers and after considering the submission of both sides, it appears that FIR does not reflects the name of applicant. There is no specific allegations against the applicant in the statement of witnesses regarding the assault. The weapon used stick is recovered in the said crime. Charge sheet is filed. Two accused in the said crime are discharged as per section 169 of Cri. P. Code. The accused Nilesh Atram and Shubham Mahinde are already released on bail. Thus, considering the nature of allegations against the applicant, though it is serious offence, the applicant deserves to be released on bail. Hence, I pass the following order.

ORDER

- 1 The application Exh.22 is allowed.
- 2 The applicant namely Suraj @ Babu Tappar s/o Kisanrao Shedmake

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r/o Mangesh Nagar, Bhosa Road, Yavatmal, be released on bail in connection with crime No.352/2015 registered with P. S. Wadgaon Road, Yavatmal under Sections 147,148,149,323,307 & 302 of I.P.Code, on executing PB and SB of Rs.30,000/- (Rs. Thirty thousand) with one surety in like amount on following conditions :-

- a) The applicant should remain present on each and every date before the court.
- b) The applicant shall not directly or indirectly make any inducement, threat or promises to any person acquainted with the facts of accusation, so as to dissuade them from disclosing such facts to the Court or to any police officer.
- c) He shall not leave the jurisdiction of this court without prior permission of P. S. Wadgaon Road, Yavatmal .
- d) Bail at committal court.

Dt.14-7-2016.

(A.S.Waghmare)
Additional Sessions Judge,
Yavatmal.

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