

IN THE COURT OF THE SESSIONS JUDGE, YAVATMAL
(Presided over by Shri K.R.Pethkar)

S.T.No. 31/2020
[CNR No MHYA010006532020]
State of Maharashtra -Vs- Vikas @ Lahanya+2

Criminal Bail Application No. 109/2020
[CNR No MHYA010007682020]
Pramod Shinde+1 -Vs- State of Maharashtra

Common order below Exh. 2, 4, 6 in S.T.No. 31/2020 and Exh.1
in Criminal Bail Application No. 109/2020

[Passed on this 2nd June, 2020]

1.. Heard learned Advocate for the applicants and learned A.P.P. Shri Mohod. These are the applications for interim and regular bail in Crime No. 544/2019 registered under section 302 r/w 34 of the I.P.C. in Babhulgaon Police Station.

2.. The accused No. 1 to 3 states that due to Covid-19 endemic and in view of the guidelines given by the Hon'ble Supreme Court in SMW(C) No. 1/2020 and decision taken in the meeting on 11th May, 2020, they be released on interim bail on furnishing P.R. bond of Rs. 15,000/-.

3.. The accused Pramod Shinde and Nikhil Todsam states that the report is lodged against the unknown person. There is no eye witness to the incident and the police had arrested them on the ground of suspicion. They are not

concerned with the offence and they do not have any nexus with the crime. They are falsely implicated in the offence. They do not have any criminal record. They are ready to give undertaking that they will not flee away from the justice. The police had filed the charge-sheet and case is committed to the Sessions Court. They have prayed that their application for regular bail may kindly be allowed.

3.. The State has given say at Exh.5 (in Cril.B.A.No.109/2020) stating that accused Vikas was having suspicion that deceased Devidas is having illicit relationship with his wife. The accused No. 1 to 3 in furtherance of their common intention have committed the murder of Devidas with knife. The accused Pramod @ Domya has given confession statement under section 27 of the Indian Evidence Act and has produced the weapon used in the offence. The accused persons have given confession before two witnesses immediately after committing the crime. The applications for bail are devoid of merit. Hence, it has prayed that applications for interim and regular bail may kindly be rejected.

4.. Shri Chaudhari, learned Advocate for the accused has

submitted that the applicants Pramod Shinde and Nikhil Todsam are falsely implicated in the crime. They do not have any nexus to the crime in question. The F.I.R. is lodged against the unknown person. The investigation of the crime is completed and nothing is to be recovered from the accused persons. The accused persons are behind the bar for more than three months. The accused persons are entitled for benefit of Covid-19 endemic. No prima facie evidence is available against the accused persons. The accused persons did not give any confession before any witnesses. He has prayed that applicants Pramod Shinde and Nikhil Todsam may kindly be released on interim / regular bail.

5.. Learned A.P.P. has submitted that the accused No. 1 to 3 have committed the murder of Devidas. The accused persons have given extra judicial confession statement immediate after the incident. The accused No.1 has given confession statement under section 27 of the Indian Evidence Act and narrated to the panchas as to how they have committed murder of deceased Devidas. The accused persons will not be available for trial if they are released on bail. They will tamper

the prosecution witnesses. He has prayed that applications for interim / regular bail filed by them may kindly be rejected.

6.. The report shows that the first informant has given the report about the murder of his brother Devidas by unknown persons in the field of Sudhakar Pusnake. The statement of Mahendra @ Pankaj Bhagat shows that on 27-11-2019 in the afternoon at 12.00 noon he had given his Honda Shine motorcycle No. MH-31/FL-4153 to the accused Pramod as the accused Pramod wanted to go towards Gimona Fata. In the afternoon at 2.30 p.m. witness Mahendra @ Pankaj Bhagat made a phone call to accused Pramod @ Domya and made enquiry with him about his motorcycle. At that time the accused Pramod said to him that he and his friends by name Vikas, Nikhil came on his motorcycle towards village Sukali to meet one person by name Devidas and there quarrel took place between them and Devidas and they have committed his murder. So he asked accused Pramod as to where is his motorcycle. On that accused Pramod replied him that they are riding his motorcycle on Kalamb Road. The witness Mahendra @ Pankaj Bhagat took the motorcycle of Police Patil from his village and took his friend

Akshy as a pillion rider and went towards Kalamb Road and at that time near village Naygaon at about 3.00 p.m. they met accused Pramod and two persons on the motorcycle. He knew accused Nikhil from village Malkapur. The pant of accused Nikhil was stained with blood. So he asked them as to what had happened. On that they replied that accused Vikas from village Sukali who is alongwith them, his wife had illicit relationship with Devidas and so quarrel took place between them and Devidas and they have committed his murder. The statement of witness Akshay Dehankar is similar to the statement of Mahendra. The statements of these two witnesses shows that the accused persons have given extra judicial confession to both the witnesses immediate after the incident. The statement of both the witnesses shows prima-facie involvement of all the accused persons in committing the murder of Devidas.

7.. The accused Pramod has given confession statement under section 27 of the Evidence Act and recovery of incriminating articles is done from his hand. There is ample iota of evidence on record against the accused persons. The offence is of serious in nature. The punishment for the offence

punishable under section 302 of the I.P.C. is life imprisonment which may extent to capital punishment. The possibility of tampering the material witnesses by the accused persons cannot be ruled out. The postmortem report shows incised injuries on the neck of Devidas due to knife in question. The C.A. report is yet to be received. This is not the fit case to extend benefit of the Covid-19 epidemic to the accused No. 1 to 3 to release them on interim or regular bail. The applications for bail are devoid of merits. Hence, I pass the following order.

Order

The application for regular bail in Criminal Bail Application No. 109/2020 is hereby rejected.

The applications for interim bail Exh. 2,4 & 6 in S.T.No. 31/2020 are hereby rejected.

Dt/2-6-2020

[K.R.Pethkar]
Sessions Judge,
Yavatmal.

Note : Original copy of this order be kept in Cril.Bail Application No. 109/2020 and its true copy be kept in S.T.No.109/2020.

Dt/2-6-2020

Sessions Judge,
Yavatmal.

