

IN THE COURT OF SESSIONS JUDGE, YAVATMAL

(Presided over by Shri K.R.Pethkar)

Sessions Trial No. 31/2020

State-Vs-Vikas Nandpatel + 2

Order Below Exh.27

[Passed on this 16th March, 2021]

1.. Heard Shri S.M. Ali, learned Advocate for the applicant and Shri U.K.Pande, learned A.P.P. for the State. This is second application for regular bail under section 439 of the Code of Criminal Procedure in Crime No. 544/2019 registered under section 302 r/w 34 of the I.P.C. in Babhulgaon Police Station.

2.. The applicant states that the Hon'ble Bombay High Court in Criminal Application [BA] No.31/2021 by its order dated 29-1-2021 has released co-accused Nikhil Todsam. The applicant is entitled for bail on the ground of parity. Hence, the second application for regular bail.

3.. The State by its say at Exh.28 states that the applicant has given memorandum before the panchas to the police and discovered knife and clothes. The application is devoid of merits. The applicant will tamper the prosecution witnesses, if he is released on bail. Hence, the second

application for regular bail may kindly be rejected.

4.. The learned Advocate for the applicant/accused and learned A.P.P. have advanced their submissions as per the grounds raised in the application for bail and say.

5.. The Hon'ble Bombay High Court while deciding the Criminal Application No. 31/21 has observed that :-

“On a perusal of the charge-sheet as well as the reply filed by the non-applicant/State, it is noticed that the First Information Report was lodged against the unknown persons. So far as the present applicant is concerned, the only evidence available against him is that the witness Ajay Morghade had seen the accused persons on a bike and they made enquiry about the whereabouts of the deceased with him and after sometime the dead body of the deceased was found in the field. Thus, apart from that there is no convincing evidence on record against the applicant.”

6.. The said observations are squarely applicable to the case of the applicant. Moreover, there appears discrepancy in the statement of the witness Ajay under section 164 of the Cr.P.C. and the statement given before the police. The observations of the Hon'ble High Court are binding on this Court. Hence, I pass the following order.

Order

Application for regular bail is hereby allowed.

The applicant/accused Pramod @ Domya

Shankarrao Shinde, r/o Asti, Tq. Babhulgaon, Dist. Yavatmal be released on bail in Crime No. 544/2019 registered at Police Station Babhulgaon, District Yavatmal for the offence punishable under section 302 r/w section 34 of the I.P.C. on his furnishing P.R. Bond in the sum of Rs.25,000/- with solvent surety in the like amount.

The applicant shall neither tamper with the evidence so far collected by the prosecution nor pressurize the prosecution witnesses in any manner.

The applicant shall attend the concerned police station on every Thursday of the month in between 11.00 to 2.00 p.m.

The applicant shall not indulge in similar type of offence in future. If it is noticed that he is involved in such type of offence, the prosecution will be at liberty to move for cancellation of bail.

The applicant shall keep himself away from the limits of area where the informant and other witnesses are residing.

The applicant shall not change the place of residence without prior intimation to the concerned police station.

The applicant shall attend the dates of hearing regularly in this Court.

His two consecutive absence without reasonable cause will entail the prosecution to move for cancellation of bail.

Dt/16-3-2021

[K.R.Pethkar]
Sessions Judge,
Yavatmal