

Sessions Case No.595/2023**State of Maharashtra****V/s****Mr. Prathamesh Bablu Pawar****ORDER BELOW EXH. 14**

Perused application, say filed by prosecution at Exh.16, chargesheet and documents on record. Heard Ld. Advocate Shri. Karanjawane for accused and Ld. SPP Shri. Taralgatti for State.

2] It is alleged by the State that the complainant Aniket Changdev Kasabe lodged report in Sahakarnagar Police Station on 09/12/2022 at 3:03 hours. He alleged that on 08/12/2022 at about 5:15 p.m. near Late Sadu Shinde Cricket ground Taljai Padmavati, Pune the complainant's brother Sahil Changdev Kasabe and his male and female friends were chatting with each other. At that time, two juveniles and their unknown friends had been to said spot and started to assault Sahil. They assaulted Sahil by means of knife and bamboo and brutally murdered him.

3] On receiving above complaint, CR No. 252/2022 came to be registered at Sahakarnagar Police Station, Pune City for offence punishable under sections 302, 323, 504, 120(B), 34 of Indian Penal Code 1860, and section 7 of Criminal Law Amendment Act. During investigation, the involvement of accused No.1 Karan @ Sonya Ravi Waghmare,

No.2 Gaurav Gokul Kendale, No.3 Prathmesh Bablu Pawar (applicant) and two juveniles is revealed. Accused Nos. 1 and 2 came to be arrested on 10/12/2022. Accused No. 3 came to be arrested on 12/12/2022. The offence is very serious. The applicant/accused is involved in conspiracy to commit the murder. The complainant, witnesses and applicant/accused are residing in same vicinity. There is threat to the life of complainant and witnesses. The applicant/accused participated in conspiracy on the ground that the deceased used to insult applicant's friend i.e. accused No.2 Gaurav Kendale. The applicant/accused had been to the spot of incident alongwith co-accused and assaulted the deceased by kick and fist blows. The motorcycle of applicant/accused is used by accused to flee away from the spot of incident. The girl friend of the applicant/accused is the eye witness to the incident. If applicant/accused is released on bail, he is likely to pressurize the eye witnesses. He is further likely to indulge in similar crimes. Hence application be rejected.

4] Adv. Karanjawane argued at length and submitted that in this crime arrested three accused and two juveniles are involved. The first bail application of applicant/accused is rejected by this Court by order dated 06.02.2024. Thereafter, by order dated 26.08.2024 in Criminal Bail Application No. 852/2024 the Hon'ble High Court has granted bail to accused No.2 Gaurav Gokul Kendale. The FIR is lodged by brother of the deceased. The applicant/accused is not named in the FIR.

The major role of assault by knife is assigned to the juvenile. The applicant/accused allegedly assaulted the deceased by kick and fist blows. Though applicant/accused is not named in the FIR, no T.I.Parade is conducted. Clothes of applicant/accused are seized but no blood stains are found. Advocate Shri. Karanjawane further submitted that as per prosecution story, accused Gaurav Kendale had hatched conspiracy as he was being insulted by the deceased. Thus, he was having motive to commit the crime. No such motive was possessed by the applicant/accused. Advocate Shri. Karanjawane relied upon following decisions on the point that fresh bail application is tenable though earlier bail application is rejected.

- i] **Nirmala Vs. State of U.P reported in 2022 2 Crimes (SC) 492 (Allahabad High Court).**
- ii] **Babu Sing Vs. State of U. P reported in AIR 1978, SC 527.**
- iii] **Shobha Ram Vs. State of U. P reported in 1992, Cri L J 1371.**
- iv] **Shri. Mohan Raikwar Vs. State of M. P 1999(2) MP L J 663.**
- v] **Velthepu Srinivas Vs. State of Andhra Pradesh in Criminal Appeal No.2852/2023 decided on 06.02.2024.**

5] Admittedly, in view of development in the proceeding the second bail application is tenable. However,

the application has to be decided on merits of each individual case. It is pertinent to note here that in present crime, the informant i.e. the brother of the deceased is not an eye witness. The male and female friends of the deceased are eye witnesses to the incident. On perusal of the statements of those eye witnesses it reveals that the applicant/accused is one of the main accused who started the quarrel and assault upon the deceased. He is specifically named by the eye witnesses one of whom is his alleged girl friend. There are specific allegations that the applicant/accused is involved in the conspiracy as well as in actual physical assault upon the deceased. The juvenile assailants and co-accused including present applicant/accused brutally murdered the deceased. After committing the murder the applicant/accused and those juveniles extended threats to the public saying that they are BHAIS of said area. It appears that the applicant/accused and co-accused committed the murder with preplan and with intention to create criminal influence in said area. As young friends of the deceased including girl friend of the applicant/accused are eye witnesses, there is every possibility that the applicant/accused would pressurize the eye witnesses, if released on bail. In view of these peculiar facts and circumstances on record the submissions of advocate Shri. Karanjawane are not acceptable. The applicant/accused is not entitled to claim parity. The ratio in rulings mentioned above is not squarely applicable to present set of facts. The applicant/accused, whose bail application is already rejected

by this Court on merit, is not entitled to be released on bail.
Hence, the order.

ORDER

Application is hereby rejected.

Pune.

Date : 18.12.2024

(P.P.Jadhav)

Additional Sessions Judge, Pune.

CERTIFICATE

I affirms that the contents of this P.D.F file Order are same word for word as per original Order.

Name of Steno : Mrs. C.N. Jagtap, Steno

Court name : PP. Jadhav,
Addl.Sessions Judge,Pune.

Date of Order : 18.12.2024

Order signed by presiding officer on : 18.12.2024

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