

10/09/2020
Cri. B.A.
(Exh. 04)
in S.C. No.
1384/2019

CORAM. H.H.ADDL SESSIONS JUDGE SHRI S. N. YADAV (C.R.No.37)

APP Mr. Abhijit Gondwal for the State present.

Adv. for applicant/accused absent.

Order BELOW BAIL APPLICATION (EXH.04)

1. By way of this application, the applicant/accused has prayed for bail under Section 439 of the Cr.P.C.

2. The applicant/accused **Niyaz Ahmed Chaudhari** is arrested on 04.05.2019 in connection with **C.R. No. 149/2019** registered with Devonar Police Station for the offences punishable under Sections 302, 397, 34 of the Indian Penal Code.

3. Heard learned Advocate for the applicant/accused and learned APP for the State.

4. Perused the documents on record and say, Exh. 02.

5. The learned Advocate for the applicant/accused submitted that Section 397 of IPC applied against the accused is not attracted, as stone is not a deadly weapon. The deceased was addicted to intoxicants. It is submitted that the eye witnesses did not call police creates doubt. It is submitted that for Rs. 300/- the offence is committed which is not possible. It is stated that the accused had no criminal antecedents. He be released on bail.

6. The learned APP has opposed the bail application and contended that the offence is serious. It is submitted that there are eye witnesses to the incident. The death of the deceased was committed while committing offence under Section 397 of the I.P.C.

7. Perused the charge-sheet and the say of the prosecution. The say of the prosecution points out that the mobile of the deceased was used for sometime after his death by the accused. Pursuant to the memorandum statement of the accused Niyaz Ahmed Chaudhari, the mobile of the deceased was recovered at his instance. The stones used in the assault were recovered from the spot. There are statement of eye witnesses. Kalam Khalil Khan and Ziaullahak Attaullhak Khan who had seen the accused committing the offence.

There is sufficient material to show the involvement of accused in the offence. The offence is serious and is punishable with death. The application for bail, therefore, cannot be considered.

8. Criminal Bail Application (Exh. 04) in Session Case No. 1384/2019 is rejected and disposed off accordingly.

Authenticated copy of this roznama be provided to both the sides.

Main Case is adjd to 17.09.2020.

Addl. Sessions Judge

