



SESSIONS CASE NO. 229/2022
State of Maharashtra Yawat Police Station
Versus
Swastik Sanjay Khadke
CNR No. MHPU140035312022

ORDER (BELOW EXH.14)
(passed on 10th day of June 2022)

This is first regular bail application filed by applicant/accused No.1 Swastik Sanjay Khadke under Section 439 of the Cr.P.C. in connection with offence punishable under Section 302, 201, 120(b) read with Section 34 of the Indian Penal Code registered with Yawat Police Station vide Crime No.479/2022.

2. The applicant Swastik Sanjay Khadke is under arrested since 05/06/2022 in connection with homicidal death of one Rajendra Dattatray Mhaske. The incident took place on 27/05/2022 at about 06.00 hours. It is the case of prosecution that under criminal conspiracy all the accused persons in furtherance of their common intention made assault over the head of deceased Rajendra Dattatray Mhaske by means of iron axe. Accused No.2 is the wife of deceased while accused No.4 is juvenile in conflict. It is to be noted here that earlier accused No.2 Gauri Rajendra Mhaske has lodged her report to the concerned police station about the missing of her husband Rajendra Mhaske and subsequently during investigation police have traced and reached on the conclusion that applicant alongwith other accused have committed the brutal murder of deceased Rajendra Mhaske. It reveals that thereafter, after the incident of murder accused carried the body of deceased Rajendra dumped in one bag and thrown the same in the Edshi Forest in order to destroy the evidence. Subsequently, the report of incident was lodged by concerned first informant.

3. Perused the application and record of the case also perused the say given by Investigating Office and APP for State as well as reply filed by mother of deceased Rajendra Dattatray Mhaske available on record below Exh.22.

4. Heard argument of both the sides at length. I have carefully gone through the record.

5. It is submitted that applicant/accused has not committed an offence whatsoever punishable with life imprisonment or death sentence. Prima-facie no case has been made out against the present applicant under Section 302, 201, 120(B) read with Section 34 of Indian Penal Code. The evidence is based on conjecture and surmises. There is no single eye witness to the alleged incident. In such circumstances it is unsafe to rely on the complainant. There is no iota of direct evidence which could point out the guilt of accused. There is nothing on record to suggest that there was conspiracy amongst the present applicant and other accused. No more custody of present applicant is needed and investigation is completed and charge-sheet is filed. Accused No.2 Gauri Mhaske is arrested on 05/06/2022 however, as per the order passed by Hon'ble High Court she released on bail. Applicant further submits that he will not abscond and flee away from the justice and undertake that he will not tamper or hamper the witnesses. According to applicant, if he released on bail, he is ready to abide by all the conditions if any imposed by this court, and looking the above facts applicant/accused prayed for releasing the him on bail.

6. Investigating Officer in his status report basically submitted that sufficient evidence is available on record against the applicant to show that he along-with co-accused have committed the murder

of deceased Rajendra. In such circumstances, there are chances of applicant to pressurizing those witnesses. Moreover possibility of fleeing away from trial and hampering the investigation cannot be ruled out.

7. The learned APP for State argued that there are sufficient material is available on record to show that the accused alongwith co-accused have committed the said offence. He submitted that as per the medical opinion the death has taken place on account of severe multiple injuries and cause of death of applicant is shown as "Death due to head injuries". He also submitted that there is recovery under Section 27 of Evidence Act from the accused persons, hence he submitted that the offence is serious one, hence the application be rejected.

8. Perused the record. I have carefully gone through the statement of witnesses recorded by investigating officer during investigation. Ex-facie the case is prima-facie based on circumstantial evidence. Apparently there appears no eye-witness. However the material available on record prima-facie shows direct involvement of applicant along-with co-accused in the commission of this crime. In this case homicidal death has taken place. The spot panchanama and the material available on record reflects the manner in which the deceased was assaulted and his body was thrown in the forest of Edeshi. Hence the crime itself is serious in nature. The charge-sheet has already been filed. Looking the serious nature of offence, the punishment provided to it, the role attributed to the present applicant/accused, this court is of the opinion that if applicant is released on bail, he being a **prime accused**, the apprehension that he may tamper with the evidence/ witnesses and pressurize to them or may flee from trial away

cannot be ruled out. Hence in the circumstances, application deserves to be rejected. Hence, the order :

ORDER

1. Application below Exh.14 is hereby rejected.
2. Application is accordingly disposed of.

Date :-10/06/2023

(R.K. Deshpande)
Additional Sessions Judge,
Baramati.

SESSIONS CASE NO. 229/2022

State Of Maharashtra Yavat Police Station Versus

Swastik Sanjay Khadke

CNR No.MHPU14-003531-2022

OPERATIVE ORDER BELOW EXH.14

3. Application below Exh.14 is hereby rejected.
4. Application is accordingly disposed of.

Date :-10/06/2023

(R.K. Deshpande)
Additional Sessions Judge,
Baramati.

CERTIFICATE

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

Name of Stenographer : Mrs. B.J. Khandre, steno (G-1)

Court Name : R.K. Deshpande
Additional Sessions Judge,
Baramati, Dist. Pune.

Date of Order : 10/6/2023

Order signed by
Presiding Officer : 12/6/2023
Order uploaded on : 12/6/2023