

MHSNO10042332023

ORDER BELOW EXH.7 IN Sessions Case No. 297/2023

State of Maharashtra

-:Versus :-

Kallappa Erappa Kamble

1] This application for grant of bail under section 439 of the Code of Criminal Procedure. The offence is punishable under Section 302 of the Indian Penal Code.

2] It is the case of prosecution that, accused and deceased were husband and wife. On 13.06.2023 accused assaulted deceased on her head with stone resulting her death. The FIR is by one Bhimanna Maruti Kamble, brother of deceased dated 14.06.2023. The probable cause of death is head injury. There are eye witness of the incident i.e. minor sons of the accused and deceased. The investigating officer of this case have recorded the statements of minor sons of accused and deceased and after completion of investigation submitted chargesheet. Accused is in judicial custody.

3] Accused has prayed for to release him on bail on the grounds that he is innocent and has not committed any offence. He is falsely involved and there is no iota of evidence against him. There is inordinate delay in lodging the report. Chargesheet is before the court and investigation is already completed. The investigating officer was

unaware about the injuries of deceased and he has created a story. Initially ADR no. 30/2023 was lodged and thereafter this report which creates doubt on prosecution case. The statements of sons of deceased shows that those statements are not of them but a created piece of document. Prima-facie Section 302 of IPC is not attracted even the case of prosecution is believed to be true. There was fight between accused and deceased before assault or fatal blow so, at the most the case falls u/s 304 part I or part II which prescribes lesser punishment.

4] The further contention of applicant that he will not abscond. He will not tamper with the prosecution evidence if released on bail. He is only bread earner of his family and his two children are dependent on him. Nothing is to be recovered at the instance of the applicant and his custody is not necessary. The investigation is completed and charge-sheet is filed. Applicant is ready to furnish surety. He is permanently residing on the given address. Accordingly on these and other grounds applicant/accused prayed for to release him on bail.

5] On receipt of this application say of prosecution is called. In response to it prosecution has submitted its say below Exh. 8 and has strongly opposed the application on the grounds that accused and deceased were husband and wife and accused/applicant has murdered her. The offence is serious in nature. He is residing near boundary of Karnataka so, there are chances of his fleeing away if released on bail and may not remain present before the court. If he released on bail he will pressurize to the informant and witness. Accordingly prosecution submitted for rejection of the application.

6] Court considered the arguments. Gone through the record.

7] It is argued on behalf of applicant/accused that the mother of applicant is suffering from illness so also applicant may be released on bail. The applicant has produced photocopies of some medical prescription. The prescription does not disclose the diagnosis of the patient and it also shows that the patient was treated on OPD basis. So these documents are not helpful to the applicant/accused to release him on bail.

8] Record shows that it is alleged by prosecution that accused/applicant has committed murder of deceased. Record prima-facie shows that the incident is witnessed by the minor sons of accused/applicant and the investigating officer has recorded their statements in question-answer form. These statements shows the role attributed by the accused/applicant in committing murder of his wife. Crime Details Form shows that investigating officer found one big size blood stained stone on the spot of the incident. Thus there is ample evidence against the accused/applicant that he has committed brutal murder of his wife in presence of kids. The offence is serious in nature. The perpetrator and witness are residing in the same house so, there is possibility of pressurizing to the witness if accused/applicant is released on bail. Thus considering the gravity and seriousness of the offence, commission of brutal murder of wife by pelting stone on her head, in presence of kids by the applicant/accused and possibility of pressurizing to the witness if accused/applicant is released on bail, this court is of the view that at this stage he is not entitled for bail. Thus the application is

liable for rejection. With this the following order,

ORDER

Application is rejected.

(Smt. M.S. Kakade)

Date: 01/03/2024.

Additional Sessions Judge, Sangli.

CERTIFICATE

I affirm that the contents of this P.D.F. file are same, word to word, as per original order.

Name of the Stenographer	:	Shri. M. M. Buchade (Steno Grade-II)
Court Name	:	Ad hoc Dist. Judge – 2 & Addl. Sessions Judge, Sangli.
Date of Order	:	01/03/2024
Signed by P.O. on	:	01/03/2024
Uploaded on	:	04/03/2024