

Sachin s/o Madhavrao Urade ... **Applicant**
Age 32 years, Occu: Agriculture
R/o Dagadgaon, Tq. Loha, Dist. Nanded

The State of Maharashtra ... Respondent

CORAM : V. G. BISHT, J.
RESERVED ON : 11th August, 2021.
PRONOUNCED ON : 21st August, 2021

1. This is an application filed by the present applicant under section 439 of the Code of Criminal Procedure, 1973 to enlarge him on bail in connection with Crime No. 118/2020 registered with Sonkhed Police Station, District Nanded for the offence punishable under Sections 302 r/w 34 of the Indian Penal Code, 1860.

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quarreled with the deceased over the payment of work of Soyabean. It is then alleged that the accused Bhagwan assaulted the deceased by means of stick and belt, accused Anandrao Kashinath Jadhav and the present applicant by means of fist and kick blows. All the abovesaid persons then dragged the deceased from the field of Soyabean till the road and thus committed the murder.

3. Mr. A. D. Hande, learned counsel for the applicant, submits that there is no direct evidence in respect of alleged assault on the person of deceased by the present applicant. Whole case is based on circumstantial evidence. The learned counsel invited my attention to the statement of witnesses recorded by the investigating officer during the course of investigation and termed all those statements as hearsay statements. In such circumstance, the present application deserves to be allowed, argued learned counsel.

4. Mr. N. T. Bhagat, learned A.P.P., on the other hand, took me through the statements of the witnesses and also the statement recorded under section 164 of the Criminal Procedure Code. The learned A.P.P. also pointed out various injuries from the postmortem report and then submitted that since the deceased was mercilessly assaulted by the applicant and other accused person, the application needs to be rejected.

5. From bare reading of the first information report, it would be seen that the incident in question was not witnessed by anybody. The

only fact which reveals from the first information report is that on 11.10.2020, the other accused and the present applicant had called the deceased in the field, there they consumed liquor and then dispute over the payment of work of Soyabean ensued, whereupon, the other accused and the present applicant assaulted the deceased leading to his death. The postmortem report shows the cause of death as "Shock due to multiple injuries".

6. I have gone through the statements of material witnesses. The first witness relied on by the prosecution is Balaji Rajaram Panchal whose statement shows that on the day of incident he, other accused and present applicant were present alongwith the deceased. All of them had liquor and food and thereafter this witness went to sleep. While in sleep, according to him, he was able to hear quarrel over the demand of Rs.200/-. This witness, however, does not state whether he had heard the cries of the deceased as a result of the alleged assault. It is only on the next day i.e. on 12.10.2020, he came to know about the death of the deceased.

7. Then there is statement of Bapurao Maruti Dhavale. He also states that all the accused, deceased and the present applicant had consumed liquor and were quarreling over the monies of their share in respect of cutting of Soyabean crop. He, thereafter, went away and then at about 4.30. p.m., he saw that the deceased was taken away by the present applicant and others. This witness also does not help prima

facie except to the extent that there was some quarrel over the payment of monies. Rest of the statements of witnesses are of hearsay nature.

8. Having regard to the material collected by the investigating officer, I am of the considered view that the present application deserves consideration in as much as prima facie, there is no overwhelming, cogent and concrete evidence thereby allowing the present applicant to be remained behind bars till disposal of the case..

9. Hence following order.

O R D E R

- i. The applicant be released on bail in connection with Crime No. 118/2020 registered with Sonkhed Police Station, District Nanded for the offence punishable under Sections 302 r/w 34 of the Indian Penal Code, 1860 on his furnishing P.R. Bond of Rs.20,000/- [Rs. Twenty thousand only], with one or two solvent sureties in the like amount.
 - ii. The applicant shall not tamper with the evidence or influence the witnesses.
 - iii. Bail before the trial court.
10. Bail application stands disposed of in the aforesaid terms.

(V. G. BISHT, J.)

JPC