

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

54 BAIL APPLICATION NO. 1324 OF 2021

Pradeep @ Sohan S/o Lalchand Rotre,
Age : 33 years, Occu. Labourer,
R/o. Nanded, Taluka – Nanded,
Dist. Nanded (At present in Jail)

.... Applicant

Versus

The State of Maharashtra

...Respondent

....
Shri. S. S. Rathi, Advocate for the applicant
Shri. N. T. Bhagat, APP for respondent / State
...

CORAM : M. G. SEWLIKAR, J.

DATE : 22ND NOVEMBER, 2021

PER COURT :

1. This is an application under Section 439 of the Code of Criminal Procedure for releasing the applicant on bail in connection with C.R. No. 0252 of 2020 registered with Vimantal Police Station, Dist. Nanded for offences punishable under Sections 302, 201, 34 of the Indian Penal Code and under Sections 3/25 and 4/25 of the Indian Arms Act.

2. It is the prosecution case that on 2nd August, 2020 the deceased Vicky Chouhan, one Ingale and witness Ranjyotsing

Jagendrasing Sukhai were riding motorcycle. Motorcycle was being driven by witness Ranjyotsing Jagendrasing Sukhai. At 8 p.m. they came to Shankarrao Chavan square on the road in front of Gurudwara. A little ahead of the said square, a four wheeler gave dash to the motorcycle of the deceased. The motorcycle skidded and alongwith the motorcycle witness Ranjyotsing was dragged. The deceased Vicky Chouhan and Ingale fell down. The offending four wheeler's head lights were on. Some persons alighted from the four wheeler. They were armed with swords and one of them said 'Kailasbhau fire'. Witness Ranjyotsing ran away. At that time he heard the sounds of gun shots. Thereafter, he went to the police station. This incident was informed to the sister of the deceased. Sister of the deceased lodged FIR on the basis of which offences as aforesaid came to be registered.

3. Heard Shri. S. S. Rathi, learned Counsel for the applicant and learned APP for respondent / State.

4. Shri. Rathi, learned Counsel for the applicant submits that there is no evidence against the applicant to connect him with the offence. The only evidence against the applicant is in the nature

of memorandum. He submits that in the memorandum also, no role is ascribed to the applicant. He submits that whatever stated in the memorandum is inadmissible against the applicant. He, therefore, prays for grant of application for bail.

5. Learned APP opposed the application.

6. Charge-sheet is filed. On perusal of the charge-sheet, it appears that the only evidence against the applicant is in the nature of memorandum. Memorandum of accused – Keshav Shivaji Narhare has been recorded and the memorandum of another accused – Sushil Gavkhore is also recorded. Both of them have stated that the applicant was simply present there when the dead body of the deceased – Vicky was being taken out from the vehicle. Whether the applicant had participated in the commission of offence is not made clear by these two statements. On perusal of the entire charge-sheet, it does not appear that any other role is ascribed to the applicant. There is statement of witness-Suraj Khirade, recorded under Section 164 of the Cr.P.C. From the statement, it appears that the applicant had said to him that Vicky Chouhan was murdered by him and others. No evidence is collected by the prosecution to indicate that

the applicant had made any such statement to this witness. On the basis of scanty evidence, it cannot be said that any *prima facie* case is made out against the applicant. Charge-sheet is already filed. Therefore, further detention of the applicant is not necessary. In this view of the matter, I am inclined to pass the following order.

ORDER

- [i] Application is allowed.
- [ii] Applicant be released on bail on his furnishing PR bond of Rs.30,000/- (Rupees Thirty Thousand only) with one solvent surety in the like amount in connection with C.R. No. 0252 of 2020 registered with Vimantal Police Station, Dist. Nanded for the offences punishable under Sections 302, 201, 34 of the Indian Penal Code and under Sections 3/25 and 4/25 of the Indian Arms Act.
- [iii] Application is disposed of.
- [iv] It is clarified that the observations made in the above order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

[M. G. SEWLIKAR]
JUDGE