

Versus

Mr. Sandeep D. Shinde a/w Mr. Pravin Mengane i/b Mr. Prashant Patil,
for the Applicant.

Ms. P. N.Dabholkar, APP, for the State-Respondent.

CORAM : V. G. BISHT, J.

RESERVED ON : 6th December, 2021.

PRONOUNCED ON : 15th December, 2021.

PC:-

. The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in C.R. No. 476 of 2017 registered with Karad Taluka Police Station, District-Satara for the offences punishable under Sections 302, 120-B r/w 34 of the Indian Penal Code.

2 It is the case of prosecution that informant is uncle of deceased Prathamesh Sanjay Sankpal, who was a student of 12th standard

studying in Y.C.College of Science at Vidyanagar, Karad. The applicant and two more students, who are stated to be juveniles in conflict with law, were also studying in the same college. On 17/11/2017 the deceased left his house for college as there was examination but did not return.

3 The prosecution alleges that the relations between the deceased and the applicants and other co-accused were not cordial and therefore, on 17/11/2017 at about 4-00 p.m. they committed murder of the deceased in the area known as 'Bhatki Shiva' near railway line in the vicinity of village Parle, Taluka Karad by means of knife and scythe. Accordingly FIR came to be lodged.

4 Mr. Shinde, learned Counsel for the applicant, submits that there was college rivalry between the deceased and the applicant and another. Although it is alleged that the deceased was assaulted by means of a knife on head, face and neck but those injuries did not match with the findings of Postmortem Report. Although the charge-sheet has been filed but trial is yet to be commenced. Having regard to the circumstance and as also age of the applicant, he deserves to be enlarged on bail.

5 Ms. Dabholkar, learned APP, on the other hand, vehemently opposed the submissions by contending that there is statement of eye witness, namely, Yogesh Tanaji Shedge who had witnessed the incident and even the deceased himself had confided to Vishwajit @ Vishu Krushnarao Pawar on 17/11/2017 that he is likely to be beaten. Besides, the Postmortem Report also point out the injuries sustained by the deceased which is quite in consonance with the theory of prosecution. There is no inconsistency between findings of Postmortem Report and theory of prosecution as is claimed by learned counsel for the applicant. According to learned APP, since the deceased was mercilessly killed the applicant does not deserve to be enlarged on bail.

6 Perused investigation papers. First of all, I may from the FIR point out that the informant has clearly stated that there were injury marks on the head and neck of the deceased by means of a sharp weapon. Column No. 17 of the Postmortem Report clearly shows that there were multiple superficial to deep incised wounds over scalp, face and neck. Thus apparently there is no inconsistency, except wound on face, between the case of prosecution and finding of the Postmortem Report as canvased before me by learned Counsel for the applicant.

7 This brings me to the statements of eye witness viz. Kiran @ Ganesh Shivaji Thorat. From the statement of this witness it is very much clear that he witnessed the whole incident. According to this witness, the hands of deceased was caught hold of by accused Vijay while the applicant took out a scythe from his sack which was given to him by accused Vijay only and then gave a blow on the head of the deceased as a result of which deceased fell down. Even thereafter the applicant gave three blows of scythe on the neck of the deceased. After the deceased died, the applicant threatened the others including the witnesses that if any of them disclosed the incident they would be similarly done to death. His statement further shows that because of threats given by the applicant and as he is of hot temperament, this witness did not tell about the incident to anybody. Incidentally, I may note from the Postmortem Report that the cause of death was “ Head injury due to multiple incised wounds associated with fracture skull bone”.

8 One more statement is that of Vishwajit @ Vishu Krushnarao Pawar. It appears that on 17/11/2017 when witness had been to college for examination, deceased called him and expressed his apprehension that he would be beaten by the boys. When this witness

enquired with him as to who were those boys, the deceased replied that he would tell later on. At about 3-30 p.m. this witness saw applicant and other accused and as also the deceased standing in front of them.

9 From the above, it is clear that the witness, namely, Vishwajit @ Vishu Krushnarao Pawar had seen the applicant and other accused in the company of the deceased immediately before the incident. It is also pertinent to note that the deceased had expressed his apprehension of his being beaten at the hands of boys though he did not name those boys. However, immediately thereafter incident took place and it appears that those boys were applicant and others which is more than clear from the statement of Kiran @ Ganesh Shivaji Thorat.

10 From the above, I find that there is overwhelming evidence. The injured was brutally killed by the applicant by means of scythe. I do not find merit in the application. Hence, the following order.

ORDER

Bail Application No. 1031 of 2020 is rejected.

(V. G. BISHT, J.)