

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1678 OF 2022

PRAVIN RAMKISAN HINGE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Joydeep Chatterji
APP for Respondent : Mr. K. S. Patil
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CORAM : S. G. MEHARE, J.

DATE : 14-11-2022

PER COURT :-

1. Heard the learned counsel for the applicant and the learned A.P.P. for the respondent/State.
2. The deceased had committed the immoral act of committing unnatural sex with a child in his own house. The mother of the said child learnt about the said incident. Hence, she shouted. So people gathered there. They called the deceased from house. When he came out from his house, the public started beating him. The applicant also beat him with fists on his head. Due the assault of the public the deceased died. Hence, the police registered a crime of murdered against the applicant and others. The applicant is serving in the Army. The Army Officers surrendered him on

22.07.2022. The mother of the child had lodged a report against the deceased.

3. The learned counsel for the applicant would submit that the prosecution has the best case the evidence of video recording of the incident. However, that falsifies the allegation levelled against the applicant that he banged the head of deceased against the wall. The incident happened out of public outrage. The similarly situated co-accused have been released on bail. He would submit that there are no antecedents to the discredit of the applicant. Considering the allegations levelled against the accused, there appears a serious doubt about the offence under Section 302 of the Indian Penal Code ("IPC", for short). It was unintentional act. Nothing is to be recovered from the applicant. There is no question of tampering with the prosecution witnesses. He is in the Army. Therefore, there is least possibility of his absconding. Hence, the applicant may be released on bail.

4. The learned A.P.P. has opposed the application contending that the death was caused due to head injury. The evidence reveals that the applicant assaulted the deceased with fist blows on his head. There were many injuries on person of the deceased. Considering the conduct of the applicant, it cannot be stated that Section 302 of the I.P.C. would not attract. However, he fairly

conceded that there were no antecedents to the discredit of the applicant. Considering the gravity of the offence, the applicant may not be released on bail.

5. The allegations against the applicant are that, he assaulted the deceased with fists on his head. It is not in dispute that the incident happened after the deceased committed an offence under Section 377 of the IPC and under the provisions of the Protection of Children from Sexual Offences Act, 2012 (for short 'the POCSO Act'). Many persons mercilessly beat the deceased. The video relied upon by prosecution does not disclose the applicant banged the head of the deceased against the wall. The similarly situated the accused have been released on bail. There are no antecedents to the discredit of the applicant. The over all allegations against the applicant reveals that the incident happened at the spur of the moment. The intention to kill the deceased may be examined during the trial. However, *prima facie* it appears that the present incident was the outcome of illegal acts committed by the deceased. The public was outraged and started beating the deceased for his illegal acts. The applicant is serving in the Army and permanent resident of Gandhinagar, Bholegaon, District Ahmednagar. Considering the entire facts, completion of investigation and illegal deeds of the deceased, it is desirable to release the applicant on bail on certain conditions. Hence, the

following order :-

- i) The application is allowed.
- ii) Applicant Pravin Ramkisan Hinge be released on bail, on furnishing PB and SB of Rs.50,000/- with one solvent surety of the like amount, in C.R.No. 0456 of 2022 registered with Topkhana Police Station, District Ahmednagar, for the offences punishable under Sections 302, 143, 147 read with Section 149 of the Indian Penal Code,
 - (a) He shall not tamper with the prosecution witnesses;
 - (b) He shall co-operate with the investigation and the trial.

(S. G. MEHARE)
JUDGE

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