

Versus

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Mr. A.R. Kapadnis, APP for the State.

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DATED : 15 NOVEMBER 2022

P.C. :-

This is an application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of bail.

2. The applicant came to be arrested in Crime No. 878 of 2021 registered at Sangola Police Station, for the offence punishable under Sections 302, 201, 120-B r/w. 34 of Indian Penal Code.

3. The applicant is the accused No.4 in the aforesaid crime. The deceased was the son of accused No.1. According to the prosecution, the deceased was not behaving properly with his family members. It is alleged that the accused No.1 thus gave contract to kill the deceased to the co-accused No.2. It is alleged that pursuant to the said contract, the present applicant alongwith co-accused committed murder of the deceased in the

intervening night of 11th July 2021 and 12th July 2021.

4. I have heard the learned Counsel for the applicant and the learned APP for the State.

5. The learned Counsel for the applicant submits that according to the prosecution the alleged contract to kill the deceased was given to accused No.2. It is submitted that no overt act is attributed to the present applicant in alleged crime and only incriminating material against the present applicant is that he was with the accused No.2 at the time of purchasing koyta allegedly used for committing the murder of the deceased. It is submitted that the applicant cannot be said to be involved in the alleged crime on the basis of this one circumstance. It is submitted that considering the facts and circumstances, the applicant be released on bail.

6. On the other hand, the learned APP for the State submits that the deceased was brutally murdered. According to the learned APP, perusal of the charge-sheet would show that the applicant was part of conspiracy as he was with the accused No.2 at the time of purchasing koyta by which the accused No.2 committed the murder of the deceased. It is submitted that considering the nature of offence, the applicant may not be released on bail.

7. Admittedly, the case is based on circumstantial evidence. The alleged contract to kill the deceased was given to the accused No.2.

According to the prosecution, accused Nos.2 and 3 brutally assaulted the deceased. Considering the facts and circumstances and as the investigation is over, I am inclined to release the applicant on bail. Hence, the following order is passed :

(i) Application is allowed.

(ii) The applicant - Prakash Gorakh Kolekar be released on bail in Crime No. 878 of 2021 registered at Sangola Police Station, for the offence punishable under Sections 302, 201, 120-B r/w. 34 of Indian Penal Code on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.

(N.R. BORKAR, J.)