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DATED : 28 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. 387 of 2021 registered at Jath Police Station, Sangli for the offence punishable under Sections 302, 452, 404, 143, 148, 149 of Indian Penal Code and Sections 4, 25 of the Indian Arms Act.

3. According to the prosecution, on 23rd July 2021 at about 7.30 a.m. the present applicant and other co-accused assaulted the deceased by sword and sticks and committed his murder on account of previous dispute.

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 there is no evidence to connect the present applicant with alleged crime except the alleged confessional statements of the co-accused. It is submitted that in one of the said confessional statements no overt act is attributed to the present applicant. It is further submitted that the alleged confessional statements cannot be relied upon as they are exculpatory in nature. It is submitted that considering these facts and circumstances, the applicant be released on bail.

6. On the other hand, the learned APP for the State submits that the co-accused Anil Kalel has stated in his confessional statement that the present applicant had caught hold of the deceased and the co-accused Vijay Karale repeatedly assaulted him by sword. It is submitted that there is no parity in the role attributed to the present applicant in crime in question and the role attributed to the co-accused, who are released on bail. It is submitted that considering the nature of offence, the applicant may not be released on bail.

7. Prima facie the alleged confessions do not appear to be exculpatory. Considering the overt act attributed to the present applicant in the crime in question, I am not inclined to release the applicant on bail. Hence, the following order is passed :

- (i) Application is rejected.
- (ii) Needless to mention that observations are prima facie and the trial court shall decide the matter without being influenced by these observations.

(N.R. BORKAR, J.)