

if the motive is considered, the evidence is against the accused no. 1. He, therefore, submits that as there is no evidence against the applicant or there is no recovery from the applicant and since the charge-sheet has already been filed, further custody of the applicant is not necessary. Accordingly, he prays for grant of bail.

4. On the other hand, Shri Gaikwad, the learned APP strongly opposed the application and pointed out the extra judicial confession and the other circumstantial evidence to show that on the date of incident the applicant was on leave from his work place. The statement of the father of the deceased shows that there was a enmity between both the accused including the applicant and the deceased. He further points out CDR location to show that the applicant was present at the time and date of the incident on the spot of incident. He, accordingly, submits that as the offence is very serious, this court may not grant bail to the applicant.

5. Having considered the extra judicial confession of the witness Rishikesh Dhangar, it is evident that on the date of incident, all the three i.e. accused and deceased were travelling in a car when suddenly a quarrel took place between the deceased and the accused no. 1. Whereupon the accused no. 1 started giving blows by knife to the deceased. It further shows that thereafter initially the accused decided to take the deceased to the hospital, however, on the way to hospital the accused no. 1 decided to kill the deceased and accordingly he killed the deceased. The extra judicial confession further states that the applicant gave a blow by a stone on the head of the deceased.

6. If this story is considered, there is no corresponding injury found on the skull of the deceased.

7. The statement of father shows enmity between accused no.1 and deceased. There is a reference of an incident in his statement, when the accused no.1 along with three other persons including the applicant removed certain photographs from the computer of the deceased. However, the allegations about assault at that time, was against the accused no. 1

8. Thus, considering the role of the applicant and evidence available on the record, it is evident that except the fact that the applicant was present at the time of incident on the spot, there is nothing against the applicant including the motive.

9. The evidence collected by the IO indicates the main role played by the accused No. 1 and the motive of the accused no. 1 behind the killing of the deceased.

10. In that view of the matter though the offence is very serious, in absence of sufficient evidence against the applicant showing his role and motive in the alleged offence, I am of the opinion that the applicant is entitled for bail. Accordingly, I pass the following order:

ORDER

- i) Criminal application is allowed;
- ii) It is directed that the applicant shall be released on

bail in Crime No.608 of 2023, registered with Khed Police Station for the offences punishable under Sections 302, 364, 201 read with 34 of the Indian Penal Code, 1860 (for short, 'IPC') on furnishing PR.Bond of Rupees Twenty-Five Thousand with one solvent surety in the like amount;

iii) The applicant shall not enter into the territorial jurisdiction of Shirdi Police Station, Taluka-Rahta till the conclusion of the trial;

iv) The applicant shall provide his address and name of the nearby police station to the IO, which he shall attend the said Police Station on 1st and 16th day of every month between 12.00noon to 2.00 p.m., till the conclusion of the trial except on the date of trial;

v) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also not tamper with the evidence;

vi) Liberty is granted to the State to apply for cancellation of bail in case of any breach of condition if the applicant commenced similar offence;

vii) The applicant shall attend the trial before the trial Court regularly on every date unless exemption is granted by the trial Court.

11 The Criminal Application is **disposed of** accordingly.

(ANIL S. KILOR, J)