

Order below Exh.1 in Cri. Bail Application No. 23/2022

Akshay Uttam Jadhav .. Applicant/
Accused.

Vs.

The State of Maharashtra
through Police Inspector,
Ambad Police Station, Nashik.
(Cr. No.I 265/2021) .. Prosecution

Order below Exh.1.

1. This application has been filed by the applicant/accused under section **439 of Cr.P.C.** for releasing him on **regular bail** in the aforesaid Crime registered at Ambad Police Station, for the offence punishable under sections 302 r/w. 34, 120-B of IPC u/s. 4/25 of the Arms Act.

2. According to the prosecution, the FIR was lodged by the wife of the deceased alleging therein that, she was married in the year 2009 with one Pappu Ashok Rajgire. Out of the said wedlock, she has given birth to two children. On 04.02.201, he died due to accident. After his death, his family members drove them out of the house. She started residing separately alongwith her children. In the mean time, she came into contact with deceased and fall in love with him and they performed marriage in the temple and started residing with him alongwith

children. The accused are in-laws of the complainant. They came to know about her relationships with deceased. They got annoyed and threatened the complainant and deceased on several occasion. They did not like staying of the complainant with the deceased. The complainant shifted her residence from time to time due to terror of the accused persons. On 01.09.2021, during evening hours, the accused persons and juvenile-in-conflict with law came to her house and assaulted the deceased with deadly weapons. As a result, the deceased succumbed to the injuries. He was taken to the hospital and the Doctor declared him dead. So, she lodged report.

Based on her report, crime was registered against the accused vide CR No.265/2021 and the applicant was arrested on 18.09.2021 and since then, he is in judicial custody.

3. The learned counsel Mr. Z.Z.Inamdar appearing for the applicant/accused has argued that applicant has been implicated in the false case. He is innocent. The name of the applicant is not appearing in the FIR. No specific role is assigned to the applicant in the FIR. Nothing was seized from the applicant during his custodial interrogation. There is no direct or indirect evidence against him. He is ready to abide each and every conditions if any imposed by this Court while enlarging him on bail. The other accused are already released on bail and hence, ground of parity is also available. Lastly, he prayed for

bail to the applicant/accused.

5. The Investigating Officer has filed his say vide Exh.5 and submitted that the offence is serious in nature. The applicant is habitual offender. One of the accused is still absconding. Hence, prayed for rejection of the application.

The ld. APP Smt. R.M.Kotwal has strongly opposed the application by filing her say at Exh.6 thereby stating that the offence is serious in nature. The applicant has conspired with other co-accused and culminated the act. If the applicant is released on bail, there is every possibility that he may abscond. Hence, prayed for rejection of the bail.

6. After hearing both the sides and going through the charge-sheet, it appears that applicant is not named in the FIR. Even there is no evidence which would go to show that he conspired to kill the deceased along with co-accused. None of the accused have stated during memorandum panchanama under section 27 of Indian Evidence Act, that he was part of conspiracy. Despite observation of this court in earlier bail order that the concerned IO has not pointed out the specific role of the applicant how, where, with whom he conspired, despite in subsequent bail applications, IO has not taken pains to clarify the same. The co-accused in this crime are already released on bail and as such the ground of parity is also available. Considering the reasons and

rising cases of Omicron, Pandemic situation in the Country and Jails are over flooded with the inmates, I am inclined to release the applicants on bail with stringent conditions :

O r d e r

1. Application is hereby allowed.

2. Applicant/ accused – Akshay Uttam Jadhav shall be released on **regular bail** on furnishing his P.R.bond of Rs.25,000/- with one or more sureties in the like amount, on the following conditions.:-

He shall -

- (a) not act in manner injurious to the interest of the prosecution.
 - (b) maintain law and order.
 - (c) furnish the address of his residence, copy of Pan and Adhar card at the time of execution of bond and shall not change the residence without prior permission of this Court.
3. If the applicant/accused commit breach of any of the above conditions, the bail granted to him shall be liable to be cancelled.

(**Smt. S.S. Nair**)

Date : 17.01.2022.

Addl. Sessions Judge-4, Nashik.