

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Criminal Application [BA] No.900 of 2014

(Leelabai Maksudan Yadav

vs.

State of Maharashtra, through P.S.O. Kalmana, Nagpur)

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Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

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Court's or Judge's Orders

CORAM : PRASANNA B. VARALE, J.

DATE : MAY 8, 2015.

Heard Mr. A.K. Bhangde, the learned Counsel for applicant.

The applicant is before this Court seeking her enlargement on bail in connection with Crime No.331/2013, registered at Police Station Kalmana, Nagpur for the offences punishable under Sections 307, 302 read with Section 34 of the Indian Penal Code.

Mr. Bhangde, the learned Counsel for the applicant in his detailed submission invited my attention to the statement recorded of the victim at various occasions, namely initially in the question and answer form with an endorsement of the Investigating Officer and subsequently in the presence of the Medical Officer. The submission of the learned Counsel is, there is variance in all these statements. The submission is, such variance itself makes the story against the applicant a doubtful

and suspicious one. His other submission was, though on two occasions, the marks obtained on the statements are respectively the thumb impression and the toe impression. The learned Counsel invited my attention to the postmortem report and submitted that the postmortem report suggest that the whole body was subjected to burn. On perusal of the report shows that the burn is to the extent of 99% including the whole surface of the body. The learned Counsel then submitted that the applicant is arrested on the very day i.e. on 13/12/2013 and since then she is behind the bars. He further submits that as the investigation is complete and concluded in filing the charge-sheet and there is no possibility of commencement of the trial in near future, keeping the applicant behind the bar for an indefinite period would be unjust and unsustainable. Considering the fact that the applicant is in her advanced age, there cannot be any apprehension that the applicant would indulge in any act like tampering the evidence and pressurizing witnesses, is the submission of the learned Counsel for the applicant. The learned Counsel, therefore, prays for enlargement of the applicant on bail.

Mr. P.V. Bhoyar, the learned A.P.P. for the State vehemently opposes the application. The learned A.P.P. submits that the statements of the victim reveal that the victim was subjected to ill-treatment at the instance of her matrimonial

relations and she was also subjected to allegation over her chastity. The learned A.P.P. then submits that though the postmortem report shows that the burn was to the extent of 99%, but it also refers that this burn except the distal ½ of the sole of left foot, and as such obtaining the toe impression cannot be looked with suspicion. Though the material refers to the part played by the applicant on the backdrop of the fact that the applicant was arrested immediately on the lodgment of the report i.e. on 30/12/2013 and since then she is behind the bars and considering the fact that the applicant is in her advanced age i.e. a lady of 60 years of age mainly indulged in her household activities and having any criminal antecedent to discredit her, in my opinion, the applicant is entitled for her enlargement on bail. The apprehension of the State can be taken care of by imposing certain conditions on the applicant.

In the result, the application is allowed. The applicant be released on bail on her furnishing P.R. Bond in the sum of Rs.20,000/- (Rupees Twenty Thousand Only) with one or two solvent sureties in the like amount on the following conditions.

- i. The applicant to attend Kalmana Police Station, District Nagpur on second Sunday of each month till the trial is commenced.

- ii. The applicant shall not tamper with the evidence nor commit any act such as contacting the prosecution witnesses or pressurize them.
- iii. The applicant to submit her residential address and contact numbers, such as phone/mobiles numbers, to the investigating agency.
- iv. In case the applicant is moving out of the area of Kalmana Police Station, she shall take permission and inform the concerned Police Station about her visit to other place.

In case of any breach of the conditions by the applicant, the State would be at liberty to move this Court.

Needless to say that these are the observations of the Court while deciding the present bail application and the learned Sessions Judge may not be influenced by these observations while conducting the trial.

The application is disposed of as such.

Hamdast is granted.

JUDGE

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