

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

26 CRIMINAL APPLICATION NO. 4872 OF 2016

JAYA @ JAYASHRI OMKAR SONTAKKE

VERSUS

THE STATE OF MAHARASHTRA

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Mr. K.D.Jadhav, Advocate for Applicant.

Mr. S.B.Yawalkar, A.P.P. for Resp. – State.

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CORAM : A.M.BADAR, J.

DATE : 19th SEPTEMBER, 2016

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PER COURT :

1. The applicant/accused in Crime No. 134/2016 registered at Chikalthana police station, Dist. Aurangabad for the offences punishable u/ss 302,120(B),201 read with 34 of the Indian Penal Code, by this application is seeking pre-arrest bail.

2. Heard the learned counsel for the applicant. The learned A.P.P. opposed the application by contending that by indulging in conspiracy, the present applicant took away the informant widow and thereby facilitated other co-accused to commit murder of Ramesh Misal. Therefore, according to the learned A.P.P., no case for pre-arrest bail is made out.

3. Perused F.I.R. as well as photo copies of papers of investigation supplied by the learned A.P.P. The F.I.R. of the incident allegedly took place in the intervening night of 16/06/2016 and 17/06/2016 and the F.I.R. is lodged on 28/06/2016 by informant Vijaya Ramesh Misal, widow of deceased Ramesh. According to the prosecution case, Ramesh Misal was done to death at his house by co-accused when the present applicant took away the informant Vijaya on the pretext of accompanying her while going for easing. The contents of the F.I.R. *prima facie* shows its absurdity. The informant claimed to have heard loud call for saving him made by her husband and still she claimed to have roamed with the present applicant for about 1 ½ hours after 11.30 p.m. on 13/06/2016 and that too at secluded locality of M.I.D.C., Shendra. On return, the informant found her husband dead and his dead body was hanging by the ceiling of the house. The papers of investigation *prima facie* shows immediate registration of accidental death case and some enquiry seems to have been conducted in pursuant to the registration of the accidental death case. The report of that accidental death case is not furnished for perusal of this Court. *Prima facie*, the papers of investigation does not reflect conspiracy. According to the prosecution case, the applicant was not on the scene of alleged crime, but she was with the informant. Nothing is to be recovered from her.

4. Considering the nature of the evidence and the circumstances in which the crime is alleged to have been committed, custodial interrogation of the present applicant is

not warranted. Hence, the following order.

(i) The application is allowed.

(ii) In the event of her arrest in Crime No. 134/2016 registered at Chikalthana police station, Dist. Aurangabad for the offences punishable u/ss 302,120(B),201 read with 34 of the Indian Penal Code, the applicant Jaya @ Jayashri Omkar Sontakke be released on bail on executing P.R. Bond of Rs. 15,000/- [Rupees Fifteen Thousand] and on furnishing surety in the like amount.

(iii) As a condition of this Order, the applicant shall not extend any threat, inducement or promise to the persons acquainted with the facts of the accusation so as to dissuade them from disclosing the same either to the police or the Court.

(iv) The applicant shall not tamper the evidence of the prosecution witnesses.

(v) The applicant shall attend the concerned police station on 25/09/2016 and 01/10/2016 in between 11.00 a.m. and 1.00 p.m. and she should co-operate the Investigating Officer in the investigation of the crime in question.

[A.M.BADAR, J.]