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

CRIMINAL APPLICATION NO.6776 OF 2015

Savita Hanumant Darekar & anr.

..APPLICANTS

VERSUS

The State of Maharashtra

..RESPONDENT

Mr R.N. Dhorde, Senior Advocate, instructed by Mr V.R. Dhorde, Advocate for applicants;

Mr M.B. Bharaswadkar, Addl. Public Prosecutor for respondent;

Mr Mahesh S. Taur, Advocate to assist Addl. Public Prosecutor

CORAM : N.W. SAMBRE, J.

DATE : 14th January, 2016

ORDER :

By this application under section 439 of the Code of Criminal Procedure, applicant no.1 – complainant in C.R. No.204 of 2013, seeks her release on bail, in connection with C.R. No.204 of 2013, registered with Shrigonda police station, for offences punishable under sections 302,394 read with sec. 34 of the Indian Penal Code.

2. The prosecution case, in brief, as against applicant no.1 is that at wee hours of 20th November, 2013, her father-in-law Bapu Darekar was murdered while committing an offence punishable under section 394 of the Indian Penal Code by unknown persons.

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3. During investigation, the Investigating Officer noticed the conduct of present applicant no.1 as doubtful, as complaint to that effect was raised by the wife of Bapu Darekar, who is her mother-in-law, the Investigating Officer arrested the applicant no.1 on suspicion and she was subjected to lie detector test and also carried out other investigation in the matter.

4. While trying to make out a case for grant of bail, Mr Dhorde, learned Senior Counsel would urge that applicant no.1 is arrested only on suspicion and there is no concrete material, in spite of her detention for three months, demonstrating her involvement in the crime in question. He would urge that applicant no.1, who is a pregnant woman, deserves to be released on bail in view of proviso to section 437 of the Code of Criminal Procedure. In addition, he would urge that even if further detention of applicant no.1 is continued, the same will hardly be of any assistance to the prosecution, particularly when the investigation *qua* her involvement has already achieved substantial progress. He would then urge that the husband of applicant no.1, namely, Hanumant, who is a serviceman, is not available to take her care being posted far away and as such, being a woman in distress, is entitled for her release on bail.

5. Learned Addl. Public Prosecutor, with the assistance of the husband's brother and the Investigating Officer would strenuously oppose the application on the ground that the investigation so far carried out points a finger of guilt against applicant no.1 and her *prima facie* involvement in commission of the crime in question. Learned Addl. Public Prosecutor has

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invited attention of this Court to the statements of mother-in-law and brother of the husband, recorded under section 164 of the Code of Criminal Procedure. He would then urge that in the lie detector test, it was noted that the response of applicant no.1 to few of the questions was deceptive, which is incriminating material available on record against her. He would then urge that while committing an offence punishable under section 395 of the Indian Penal Code, the ornaments which were informed to have been removed from her custody were found in the vicinity of her house. According to him, in view of the fact that applicant no.2 – her husband is not residing with her, the mother-in-law suspected the conduct of applicant no.1, which has prompted the investigation in the matter and as such, sought rejection of the application.

6. Having bestowed my thought to the submissions made, it is noted that applicant no.1 was arrested purely on suspicion. She had then conceded for lie detector test, in which also nothing incriminating could be noticed from her. Apart therefrom, detection of the ornaments which was subject-matter of the offence punishable under section 395 of the Indian Penal Code within the vicinity of her house does not lead to any conclusion that the said ornaments were in the custody of applicant no.1 and she was responsible for the same. Apart therefrom, the entire case against applicant no.1 is based on circumstantial evidence.

7. Looking to the present status of applicant no.1, who is a pregnant woman, in my opinion, it will not be appropriate to detain her merely on

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suspicion, that too based on circumstantial evidence.

8. In view of above, in my opinion, it will be appropriate to enlarge applicant no.1 on bail. I, therefore, pass following order :-

Applicant no.1 Savita Hanumant Darekar be released on bail, in connection with C.R. No.204 of 2013, registered with Shrigonda police station, for offences punishable under sections 302,394 read with sec. 34 of the Indian Penal Code, on furnishing P.R. Bond of Rs. 15,000/- with one surety in the like amount.

Applicant no.1 volunteers that she shall co-operate with the investigation as and when called by the Investigating Officer, with prior notice.

Learned Addl. Public Prosecutor states that applicant no.2, who is husband of applicant no.1 – complainant, is not an accused. As such, the application to the extent of applicant no.2 does not require any consideration and thus stands dismissed.

Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

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