

Sangli are praying for pre-arrest bail.

2. Heard the learned senior counsel for applicants. He argued that Rajshekhar Dhundappa Nandgond who died a suicidal death was not in custody of applicants. The learned senior counsel argued that on the basis of suspicion in the matter of rape and murder of Gangubai Amsidh Nandgond, deceased Rajshekhar along with his father were called to the police station on 4th and 5th June, 2016 and thereafter, Rajshekhar was called alone on 6th June, 2016. The learned senior counsel argued that in the evening hours of 6th June, 2016 Rajshekhar was found hanging in the public latrine situated in the premises of the Police Station Umadi. According to the learned senior counsel, the post mortem report shows that there was some injuries on the dead body. Considering the opinion of the Medical Officer at the most, it can be said that applicants have caused an offence punishable under section 330 of the Indian Penal Code of causing hurt in order to extract confession. The learned senior counsel argued that offences punishable under section 326 and 306 of the Indian Penal Code is not made out from the record of investigation. Offence under section 330 of the

Indian Penal Code is bailable and, therefore, custodial interrogation of applicants is not warranted.

3. I have heard the learned APP. According to the learned APP, custodial interrogation of applicants is required as that may turn the offence under section 306 of the Indian Penal Code to that under section 302 of the Indian Penal Code. The learned APP argued that the case is of partial hanging of the deceased and possibility of murder is not ruled out. The learned APP further argued that considering the nature of offence, custodial interrogation of present applicants is warranted.

4. Perused the papers of investigation made available by the learned APP. It is seen that on 31st May, 2016 one Gangubai Amsidh Nandgond was found to have been murdered after commission of rape on her. Her dead body was found in the forest area of the territorial jurisdiction of Umadi Police Station. Accordingly, Crime No.27/2016 came to be registered. During preliminary inquiry, it was found that the sim card which deceased Gangubai was using, was in the name of Rajshekar (since deceased). It was also found that

Gangubai was having illicit relations with Rajshekar Nandgond. It is seen from the record of investigation that as a suspect in Crime No.27/2016, deceased Rajshekar Nandgond was used to be called at the police station for inquiry. Record of investigation shows that Rajshekar Nandgond was called along with his father Dundappa at the police station on 4th and 5th June, 2016 and thereafter he alone was called on 6th June, 2016.

5. Statement of Vijaykumar - brother of deceased Rajshekar goes to show that Rajshekar used to be at the Police Station, Umadi till about 10.00 to 10.30 p.m. On 6th June, 2016 also Rajshekar had gone to Police Station, Umadi at about 9.00 a.m. and thereafter, he did not return. Similar is the statement of wife of the deceased.

6. During investigation, statement of a lady constable came to be recorded. This statement shows that present applicants were conducting investigation of the crime registered in respect of death of Gangubai by calling several suspects. This statement further goes to show that even a woman who is suspected of the offence was being assaulted

in the chamber of applicant Ganesh Waghmode, who was holding the post of Assistant Police inspector. Statement of this lady constable further goes to show that even on 6th June, 2016 at about 5.30 p.m. applicant Waghmode had called Rajshekar (since deceased) for interrogation. Earlier, he was interrogated by applicants at about 2.00 to 2.30 p.m. of 6th June, 2016.

7. Ultimately, it was found that dead body of Rajshekar was hanging by a scarf in the toilet situated in the premises of Police Station, Umadi. Dead body was then dispatched for autopsy. Along with the ligature mark, following injuries were found on the dead body of Rajshekar :-

1. Ligature mark present over neck, placed above thyroid cartilage running obliquely upward and backward with deficient over nape of neck. The ligature mark spreads from right lateral neck, posterior and inferior to mastoid by 1.5 cm then running over anterior neck and then goes upward and backward over left lateral neck upto 1 cm posterior and inferior to left mastoid. The length of mark is 30 cm and maximum width is 2 cm. The mark is placed 1 cm from right mastoid, 7.5 cm from chin and 3 cm from left mastoid. The mark is dark, dry, hard and parchment like with base abraded and contused with line

of congestion above the mark with multiple minute blisters on left side with peeling of mark skin on right lateral aspect. The neck circumference is 36 cm. Ligature material *in situ* and consists of brown colour handkerchief with white and greenish design with alphabet M printed with white colour. The ligature material have simple slip knot. The circumference of noose is 36 cm and length of one free end is 19 cm and length of other free end is 20 cm. The ligature noose and knot is secured with thread, signed packed, sealed and handed over to ASI on duty.

2. Abrasion present over right forehead, near anterior scalp hairline of size 2.5 cm x 1.5 cm. Fresh.
3. Abrasion present at left elbow 1 cm x 0.5 cm., fresh.
4. Contusion present over lower back, right side at the level L2 1 cm from midline of size 2 cm x 0.5 cm, oblique reddish.
5. Contusion on left lower back just lateral to midline at L1 level of size 2.5 cm. X 0.5 cm, oblique, reddish.
6. Contusion on left buttock just above inferior gluteal fold, horizontal, of size 7 cm X 0.35 cm reddish.
7. Contusion on left buttock just above injury No.6 of size 4 1 cm reddish.

8. Contusion on left buttock just above No.7 of size 5 cm x 1.5 cm, reddish.
9. Abrasion over right buttock of size 2 cm x 1.5 cm fresh.
10. Abrasion over right buttock just below injury No.9, of size 0.5 cm x 0.5 cm fresh.
11. On deep incisions, hematoma present over entire right and left buttock and left lower back at the level of L1 and L2 of size 11 cm x 11 cm, 10 cm x 10 cm and 3 cm x 4 cm respectively.
12. On deep incisions of both sole, deep an diffuse hematoma present in entire sole, reddish fresh.

8. Perusal of papers of papers of investigation goes to show that though not arrested, deceased Rajeshekar Nandgond was virtually in the custody of applicants / accused persons. He was the prime suspect in the offence of rape and murder of Gangubai. It is seen that during interrogation, he was assaulted by applicants / accused. Ultimately, it resulted in commission of suicide by Rajshekar.

9. Prima facie, it cannot be said that applicants who

were holding custody of deceased Rajshekar were not knowing the result of assaulting Rajshekar. It appears that because of constant torture by applicants for a period of three days, Rajshekar had indulged in self effacement. Considering the circumstances in which deceased committed suicide, it cannot be said that no offence under section 306 of the Indian Penal Code is made out.

10. Considering the nature of offence and the circumstances in which it is alleged to have been committed, no case for anticipatory bail is made out. Both applications are, therefore, rejected.

(A.M.BADAR, J.)