

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.71 OF 2021

Rukamini w/o Sandusing Chungade,
Age 39 years, Occupation Household
And Labour,
R/o Bhavani Nagar, Juina Jalna, Karmad
Tq. Dist. Jalna. ...Applicant

VERSUS

The State of Maharashtra,
Through Police Station Karmad
Tq. And Dist. Jalna. ...Respondent

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Advocate for Applicant : Mr. S. G. Bobade
APP for Respondent : Mr. S. Y. Mahajan

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CORAM : SMT.VIBHA KANKANWADI, J.

**Date of Reserving The Order :
09-02-2021.**

**Date of Pronouncing The Order :
16-02-2021.**

ORDER :

1. Present applicant is accused No.3 who came to be arrested on 18-05-2020 in connection with Crime No.326 of 2020, registered with Karmad Police Station District Aurangabad for the offence punishable under Section 302, 201, 109 of Indian Penal Code. She has filed present application under Section 439 of Code of Criminal Procedure.
2. Heard learned Advocate Mr. S. G. Bobade for applicant and learned Additional Public Prosecutor Mr. S. Y. Mahajan for respondent-

State.

3. It has been vehemently submitted on behalf of the applicant that deceased is the husband of present applicant. Accidental death came to be registered after a labour working with Forest Department gave information about finding a totally decomposed body in the forest area. Thereafter, digging work had taken place and the skeleton was recovered with some torn clothes. The inquest panchanama was done and the post mortem report was taken. The probable cause of death has been given as injury to vital organ. The dead body was of a male person and till the registration of the First Information Report, the identity was not established of the deceased and, therefore, First Information Report came to be lodged against unknown person for killing unknown person. It appears from the record that now the investigation is over and charge-sheet is filed and from the charge-sheet it appears that police could establish the identity. How it has been established is not clear from the record, however then statement of witnesses have been recorded. Statement of the daughter of the present applicant and deceased gave the picture that there was dispute between the applicant and deceased on account of addiction of the deceased to liquor. She

states that her father had taken hand loan from original accused No.1 and then there was a plan of the applicant and deceased to give that daughter in marriage to accused No.1 which was then resisted by the applicant as well as the daughter. The daughter further states that the applicant i.e. mother had developed illicit relations with accused No.1 and then when deceased started objecting to the same, they wanted to eliminate the deceased. This is how the prosecution story has been developed. However, the daughter got married on 12-11-2019 and she was not residing with the deceased and the applicant when the alleged incident took place. There is absolutely no direct evidence regarding the involvement of the present applicant. Only memorandum panchanama has been drawn which states that she has discovered the wallet, Aadhar Card and Election Card of the deceased. In fact, taking into consideration the relationship, she might be definitely having those documents in her custody. It will take long time to stand the trial and, therefore, the learned Advocate for the applicant strongly canvassed for releasing the applicant on bail.

4. Per contra, the learned Additional Public Prosecutor strongly opposed the application and submitted that the applicant is

responsible for the entire incident. She had even concealed the fact that her husband had gone missing. The daughter came to know about the missing of the deceased after about a month. Though the skeleton was recovered, opinion was called by the Investigating Officer from the Medical Officer about probable time of death. The panel of Medical Officers gave opinion on 19-08-2020 stating that the probable time since death is within four weeks. There is evidence to the effect that recce was done by the accused persons as to where they should commit the murder and where to dispose of the body and, accordingly, after committing a murder the body has been disposed of in forest area which was not easily accessible. The real daughter of the applicant has given statement against the mother. She has specifically stated that since May 2018 accused No.1 came in contact with the family and, thereafter, the father got addicted to liquor and accused No.1 encashed the situation. He made the father indebted. They had also decided to give the daughter in marriage to accused No.1, but then it was resisted. Accused No.1 stayed with the entire family at Gangapur for about four months. At that time the accused No.1 developed illicit relations with the present applicant. When the deceased had asked accused No.1 to go away and not to visit his house, there were

quarrels between the present applicant and the deceased. Two months after the marriage of the daughter was performed, she came to know that applicant had left deceased and went to Kumbhephal. When the applicant was searched they found that she was residing with accused No.1 at Aurangabad. Even the daughter has told mother to give up the illicit relations. Father then used to reside for some days at Aurangabad and some days with the daughter, and then the father informed that accused No.1 has taken the applicant to Jalna and they are residing there together. Thereafter, one day the applicant went to meet daughter at Gangapur and, thereafter, started residing in a rented room. After some time she came to know that her parents were not residing at Gangapur but went to Jalna and when she went to Sagarwadi, she could not find her father, and therefore, made inquiry with her mother which was after about a month of father went missing. She then states that mother informed her that she has lodged report about missing of the deceased and police are searching him. When the daughter has made statement against the applicant, it will have to be considered. So also the son-in-law of the present applicant has also stated that he had given advise to the applicant to give up illicit relations. Further there is confessional statement by accused No.1 stating that

they had conspired to eliminate deceased and, accordingly, after committing his murder the dead body has been disposed of. Thus there is evidence against the present applicant, and therefore, she does not deserve any discretionary relief.

5. At the outset, it can be seen that now the investigation is over and charge-sheet is filed. The case of the prosecution is purely on the basis of circumstantial evidence. The statement of the daughter may be to show the motive or relationship, but it cannot go further. What was found was the skeleton and under Section 27 of the Indian Evidence Act there is certain discovery. However, it is to be noted that the weapon is stated to be recovered from the spot when the skeleton was recovered. Therefore, the alleged discovery of wallet and the documents of the deceased that too from his wife, can relate to her role or participation in the commission of the crime, is a question. Taking into consideration the evidence that is collected, ground is made to release the applicant on bail as it will take long time to stand her trial. Hence, following order.

ORDER

- 1) The application is hereby allowed.
- 2) Applicant Rukamini w/o Sandusing Chungade, in

Regular Criminal Case No.1995 of 2020 (Crime No.326 of 2020 dated 24-07-2020, registered with Police Station Karmad, Dist. Aurangabad), pending before learned Judicial Magistrate First Class, Aurangabad, be released on P.R. of Rs.30,000/- (Thirty Thousand) with two solvent sureties of Rs.15,000/-each (Fifteen thousand).

3) She shall not tamper with the evidence of the prosecution in any manner.

4) She shall not indulge in any criminal activity.

5) In addition to that, the applicant should provide her address where she would reside till the conclusion of the trial to the learned Trial Judge as well as to the Investigating Officer by leaving her mobile number at both the places. So also she should comply with the requirements under paragraphs No.12 (1) to (6) of Chapter I of Criminal Manual, whichever are applicable.

6) She should not contact with her daughter and should not visit her residence.

7) Bail before Trial Court.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-