

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

CRIMINAL APPLICATION (APPLN) NO. 40 OF 2020

(Smt. Parvatabai Kashinath Shinde ..vs.. State of Maharashtra, through PSO, PS Borkhedi, Buldhana
and others)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. R.V. Gahilot, Counsel for the applicant,
Mr. S.S. Doifode, Addl.P.P. for non-applicant 1/State,
Mr. V.P. Mohod, appointed Counsel and Mr. A. Prasad, Counsel for non-
applicant 2 and 3.

CORAM : ROHIT B. DEO, J.

DATED : 15-02-2021

I have heard Mr. R.V. Gahilot, learned Counsel for the applicant-Smt. Parvatabai Shinde.

2. I have heard the learned appointed Counsel Mr. V.P. Mohod and learned Counsel Mr. A. Prasad who subsequent to the appointment of Mr. V.P. Mohod, has filed Vakalatnama on behalf of non-applicants 2 and 3.

3. The learned Additional Public Prosecutor Mr. S.S. Doifode has made available the charge-sheet which is submitted upon culmination of investigation regarding the complaint lodged by Mrs. Salubai Fakira Dukre-the mother of the deceased Mr. Onkar who was allegedly murdered.

4. It would not be necessary to refer to the allegations levelled against non-applicants 2 and 3 as

regards the death, allegedly homicidal of Mr. Onkar. Suffice it to state that non-applicants 2 and 3 are arraigned as accused in Crime 345/2019 registered with Borkhedi Police Station, District – Buldhana for offence punishable under Section 302 read with Section 34 of the Indian Penal Code.

5. This Court (Coram : Mrs. Pushpa V. Ganediwala, J.) vide order dated 06-8-2020 in LD-VC-Criminal Application (BA) 243/2020 granted regular bail to non-applicant 2-Gajanan Bhimrao Jadhav subject to the condition that he shall not enter the vicinity of the area where the witnesses reside and that he shall not issue threats to the witnesses or tamper with the evidence.

6. The mother of Mr. Onkar lodged report with Police Station Officer, Borkhedi alleging that at 6-30 p.m. on 18-8-2020 non-applicant 2-Gajanan Bhimrao Jadhav came to her house, abused her and threatened to murder her other son too. Mrs. Salubai Dukre asserts that the incident is witnessed by her daughters-in-law Mrs. Balabai Ramesh Jadhav and Kantabai Uttam Jadhav. The police registered offence punishable under Sections 294 and 506 of the Indian Penal Code. The statements of witnesses who are projected as eyewitnesses, are recorded and they support the version of the complainant-Mrs. Salubai Dukre.

7. In so far as non-applicant 3-Gajanan Bapu Jadhav is concerned, it is not even alleged that he committed breach of conditions. However, in my considered view, it appears that non-applicant 2-Gajanan Bhimrao Jadhav has breached the conditions of bail. He allegedly entered the vicinity of the residence of Mrs. Salubai Dukre and issued threat of murdering her other son too. The learned appointed Counsel Mr. V.P. Mohod and learned Counsel Mr. A. Prasad for non-applicant 2 would argue that Mrs. Salubai's complaint is belated as much as the report is lodged on 20-8-2020 at 11.51 a.m. However, there is no plausible explanation forthcoming as to why Mrs. Salubai Dukre who is a chance witness, would falsely implicate non-applicant 2. The other witness, appears to be an independent witness and there is nothing on record to suggest that she had any motive for falsely implicating non-applicant 2.

8. In my considered view, since the liberty bestowed on non-applicant 2 is clearly misused, and in the process the conditions of bail are breached, the indulgence is liable to be revoked.

9. The application is partly allowed.

10. The prayer to reject the regular bail granted to non-applicant 3-Gajanan Bapu Jadhav is rejected.

11. The bail granted to non-applicant 2-Gajanan Bhimrao Jadhav by this Court vide order dated 6th August, 2020 in LD-VC-Criminal Application (BA) 243/2020 is cancelled.

12. The Station Office In-charge shall take appropriate measures to take non-applicant 2-Gajanan Bhimrao Jadhav in custody and to produce him before the jurisdictional Court for further order/s.

JUDGE

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