

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

916 BAIL APPLICATION NO.38 OF 2022

Balwantkaur w/o Balbirsing Kalara
Age: 63 years, Occu.: Nil,
R/o. H-No.417, Galli No.9, Jagirpura Road,
Near Rose School, Model Colony,
Jahangirpur, Ludhiyana (Punjab). ..Applicant

VERSUS

The State of Maharashtra
Through the Inspector of Police
Nanded Gramin Police Station,
Nanded. ..Respondent

...
Advocate for Applicant : Shri Ganesh A. Gadhe
APP for Respondent : Shri V.S.Badakh

...
CORAM : M.G.SEWLIKAR, J.

DATE: 3rd March, 2022

PER COURT :-

1. Heard.
2. Informant is the father of Gagandeepsinh (deceased). The deceased was married to one Pradeepkaur. Sumanpreetkaur is the sister of the deceased.
- 3 Applicant is a God woman. She claims that she has renounced worldly affairs and has devoted herself to service of God. According to the informant, applicant induced deceased

Gagandeepsinh to follow the path of spirituality and therefore, deceased joined the applicant. Applicant lives at Nanded whereas informant lives in Italy. Applicant and deceased Gagandeepsinh started staying together. Deceased Gagandeepsinh severed all contacts with the family and he used to remain in touch with them only through Cell phone. According to the informant, the applicant misguided deceased Gagandeepsinh by practicing black magic. On 1st April 2019, deceased Gagandeepsinh informed the informant that he was going with the applicant and informant should not trace his whereabouts. Thereafter, Cell phone of deceased Gagandeepsinh was switched off from 5th April 2021. Relatives of informant went in search of deceased Gagandeepsinh. They lodged a missing report at Police Station Mehana, District Moga, Punjab State. They came to know that a dead-body was found within the jurisdiction of Rural Police Station Nanded. After coming to Nanded, they identified dead-body to be of deceased Gagandeepsinh. On these allegations, FIR was lodged against the applicant on the basis of which Crime No.303 of 2019, came to be registered with Gramin Police Station, Nanded, District Nanded, under Sections 302, 363, 364 read with Section 34 of the Indian Penal Code and under Sections 4, 25 of the Arms Act.

4. During investigation, it was revealed that applicant had shared her secrets with the deceased and the deceased had expressed his desire to go back to his native place. Therefore, the applicant started apprehending that the deceased would misuse secret shared by her. Therefore, she asked Babusingh Jorawarsingh Basariwale to commit the murder of the deceased. Accordingly, he committed murder of the deceased.

5. Charge-sheet is filed. Shri G.A.Gadhe, learned counsel for the applicant submits that the applicant has embraced spirituality. She has given up the worldly affairs. She has renounced the world. He submits that except the Memorandum under Section 27 of the Evidence Act, there is no evidence to connect the applicant with the offence. He submits that she was called to the Police Station by the Investigating Officer so many times and every time she attended the Police Station. After a period of almost two years, she was arrested. He submits that, if she is released on bail, she will not leave jurisdiction of Nanded and will furnish local surety also.

6. Shri V.S.Badakh, learned APP for the respondent submits that offence is serious in nature. Co-accused Babusingh Jorawarsingh Basariwale has implicated the applicant. She is

the mastermind of the offence. There are CDR records indicating that the applicant and the deceased were in touch with each other. He, therefore, prays for rejection of the application.

7. From the evidence collected by the prosecution, it appears that the only evidence against the applicant is the Memorandum statement under Section 27 of the Evidence Act given by Babusingh Jorawarsingh Basariwale. In the Memorandum statement, he mentions that applicant feared that deceased Gagandeepsinh would misuse the secret shared by the applicant with him and therefore, she wanted deceased Gagandeepsinh to be eliminated. This piece of evidence is inadmissible in evidence being a confession to the Police Officer. This confession cannot be used against the applicant as per the provisions of Sections 24 and 25 of the Evidence Act. From the post mortem report, it appears that death was caused due to blunt trauma to chest. There is no eye witness to the incident.

8. Shri Gadhe, learned counsel submits that the statements of the witnesses show that deceased Gagandeepsinh was in touch with some druggist. Therefore, in view of this, probability of causing death due to fall in the scuffle with the druggist cannot be ruled out.

9. Be that as it may, the evidence against the applicant is not cogent. Learned trial Court has observed in its order that trial has commenced. Report of the learned trial Court was called. Learned trial Court mentions that evidence of only two witnesses is recorded. Prosecution could not secure presence of other witnesses. This shows that trial is not likely to be concluded in near future. Applicant, being a woman, and in absence of any cogent evidence against her, I am inclined to release the applicant on bail by putting some condition. Hence, the order :

ORDER

- i) Bail Application is allowed.
- ii) Applicant be released on P.R.Bond of Rs.30,000/- (Rs. Thirty thousand only) with one solvent surety in the like amount, in connection with Crime No.303 of 2019, registered with Gramin Police Station, Nanded, District Nanded, under Sections 302, 363, 364 read with Section 34 of the Indian Penal Code and under Sections 4, 25 of the Arms Act, and on following conditions that : -
 - (a) she shall not leave the jurisdiction of Nanded Court without permission from the concerned Court till the conclusion of trial,
 - (b) she shall not leave the country without permission of the concerned Court,
 - (c) she shall deposit her Passport, if any, with the concerned Police Station, and
 - (d) she shall furnish local surety.

iii) Bail Application is disposed of.

iv) It is clarified that the observations made in this order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

(M.G.SEWLIKAR)
JUDGE

SPT