

VAISHALI
ANIL
TIKAM

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

BAIL APPLICATION NO. 1433 OF 2022

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Jyoti Sachin Nigade ... Applicant
Vs
The State of Maharashtra ... Respondents
...
Mr. Satayrat Joshi i/b. Nitesh Mohite, for the Applicant
Mr. M.G. Patil, APP for the State/ Respondent

CORAM : SANDEEP K. SHINDE J.
Reserved on: 11th NOVEMBER, 2022
Pronounced on: 18th NOVEMBER, 2022

P.C. :

1. The Applicant seeks her enlargement on bail in connection with Crime No. 541/2021 registered with Karad City Police Station, Karad for the offences punishable under Section 302, 201, 452, r/w. 34 of the Indian Penal Code.

2. **Prosecution Case :**

The Applicant and co-accused in furtherance of the common intention, caused murder of her sister Mrs. Ujwala Thanekar. The motive alleged, was, that, the Applicant's husband

had developed close intimacy with the deceased. Thus, over the alleged affair of Applicant's husband with the deceased, on 13th August, 2019 and 18th July, 2021, non-cognizable complaints were filed by the Applicant against deceased and vice versa. In any case, prosecution alleged that on 24th September, 2021, the Applicant and the co-accused committed murder of Ujwala, by causing throat injury, with knife. It appears, at the material time, the deceased was alone in the house. Soon after the incident, the applicant was arrested on 17th September, 2021. That upon completing the investigation, the charge-sheet has been filed.

3. Mr. Joshi, learned counsel for the Applicant, has taken me through the material in the charge-sheet to contend, that no evidence has surfaced in investigation to connect the applicant to the alleged crime, inasmuch as prosecution case is founded on circumstantial evidence. Mr. Joshi submitted, assuming at the material time, applicant's was seen near the house of the deceased by witness, Shrutika Deepak Jadhav, minor 11 year old, yet there is no material or evidence indicating that the applicant entered in the

house, of the deceased and committed her murder. Mr. Joshi further submitted that except the statement of Shrutika Deepak Jadhav and the test identification parade, wherein the applicant was identified by her, there is no other incriminating circumstance/evidence to connect her to the crime in question. Mr. Joshi submitted that the Applicant being sister of the deceased, her presence on the date of the incident, near the house of the deceased could not be incriminating circumstance. Mr. Joshi submitted that since investigation is over and further applicant has no criminal antecedents, she may be granted bail by imposing suitable conditions so as to secure her presence for trial.

4. Learned APP would oppose the application and point out, that before the alleged incident, the Applicant had purchased hand gloves from the medicine shop and further Mr. Vishal Tandale, who sold hand gloves to the Applicant has also identified her in the test identification parade. The evidence of these two witnesses and the narration in the non-cognizable complaints, filed by the Applicant on 13th August, 2019 and 18th July, 2021 if taken together, would

constitute sufficient material to connect the applicant to the incident of murder of Ujwala. Learned APP, therefore, submitted that offence being punishable with life imprisonment or death, bail may not be granted.

5. I have heard submission of the learned counsel for the Applicant and learned APP for the state and also perused the final report. The prosecution case is founded on circumstantial evidence. In other words, nobody had seen the applicant entering in the house of deceased, Ujwala, committing her murder. The presence of the applicant near the house of the deceased would not be a incriminating circumstance; reason being, the deceased was a sister of the applicant. Similarly, the hand gloves allegedly purchased by the Applicant, just before the incident and further applicant being identified by the employee of medical shop, would not be a circumstance, against the applicant, for want of its recovery. Even otherwise, investigation is over and Applicant's presence for the trial can be secured by imposing suitable conditions. Thus the following order:

ORDER

- (i) The Crime No. 541/2021 registered with Karad City Police Station, Karad , shall be released on executing PR bond for the sum of Rs.25,000/- with one or more sureties in like sum.
- (ii) The applicant shall attend the concerned police station as and when called.
- (iii) The applicant shall furnish his permanent residential address and contact number to the Investigating Officer within seven days from the date of his release on bail.
- (iv) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.
- (v) The applicant shall attend concerned police station as and when called and co-operate in the investigation.
- (vi) The application is accordingly allowed and disposed of.

It is made clear that observations made here-in-above be construed as expression of opinion for the purpose of bail only and

the same shall not in any way influence the trial in other proceedings.

(SANDEEP K. SHINDE, J.)