

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Criminal Application (BA) No. 427 of 2022

Smt. Chhayabai Sarjerao Gaikwad and others

Versus

State of Maharashtra, through Police Station Officer, Police Station Lonar,
Tq. Lonar, Dist. Buldhana

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri C.B.Dharmadhikari, Advocate for the applicant.

Shri Ashish Kadukar, APP for the State / Non-applicant

CORAM : ANIL S. KILOR, J.

DATED : 22nd JUNE, 2022.

The applicants are seeking bail under Section 439 of the Code of Criminal Procedure in Crime No. 4 of 2021 registered with Police Station Lonar, Buldhana for the offence punishable under Sections 302, 201 & 120B of the Indian Penal Code.

2. Learned counsel for the applicant submits that the applicants are in jail since last two years and while rejecting their bail application for grant of bail vide order dated 20th October, 2021 in Criminal Bail Application No. 992 of 2021, this Court has observed that if there is no significant progress in the trial, in the

next ninety days, the applicants shall be at liberty to approach this Court again for grant of bail.

3. It is further pointed out that there are about 33 witnesses whereas till date only four witnesses were examined and thus looking to the pace with which the trial is proceeding, it will take a long time to conclude the trial.

4. Learned counsel for the applicants submits that whole case is based on circumstantial evidence and there is no direct evidence against the applicants. He therefore submits that there are very less chance of culmination of trial in conviction. He therefore submits that further custody of the applicants is not required.

5. On the other hand, learned Additional Public Prosecutor strongly opposed the application and submits that though the case is based on circumstantial evidence, from the record the prosecution could establish that the applicants are involved in the alleged offence. He therefore submits that this Court may not grant bail to the applicants.

6. I have perused the chargesheet and the First Information Report.

7. The whole case is based on circumstantial evidence. Applicants are relative of deceased Shivanand who was having love affair with the deceased Sanjivani.

8. Applicants are in jail for about two years and there is no significant progress in the trial. This Court vide order dated 20th October, 2021 granted liberty to the applicants to approach this Court, if there will be no progress in the trial, in the next ninety days. Even after ten months, there is no significant progress and looking to the number of witnesses, there is no possibility that in the near future the trial will be concluded.

9. In that view of the matter, I am of the opinion that there is no purpose in keeping the applicants in jail for uncertain period otherwise it would amount to pre-trial punishment. Thus, in the above backdrop and in view of the fact that the applicant nos. 1 and 2 are women and applicant nos. 3 is a young boy of 22 years old, I am of the opinion that the applicants are entitled for grant of bail. Accordingly, I pass the following order.

- i. Criminal application is allowed;
- ii. It is directed that the applicants shall be released on bail in Crime No. 4 of 2021 registered with Police Station Lonar, Buldhana for the offence punishable under Sections 302, 201 & 120B of the Indian Penal

Code, on furnishing P.R.Bond of Rs.25,000/- each with a solvent surety in the like amount;

iii. The applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also not tamper with the evidence;

[ANIL S. KILOR, J.]

SACHINDANAND
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