

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1294 OF 2023
WITH CRIMINAL APPLICATION NO.3048 OF 2023
IN BAIL APPLICATION NO.1294 OF 2023

(1) DURGA W/O. RAJU PAWAR
(2) SANGITA @ GULABI W/O. VINOD KALE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicants : Mr. Swapnil S. Rathi
APP for Respondent/State : Mr. S. P. Deshmukh
Advocate for complainant : Mr. Kailas B. Jadhav
...

CORAM : S. G. MEHARE, J.

DATE : 17-08-2023

PER COURT :-

1. Heard the learned counsel for the applicants, the learned A.P.P. for respondent No.1/State and the learned counsel for respondent No.2/victim.
2. The applicants are seeking bail in C.R.No.64 of 2023 registered with Police Station Manwat, District Parbhani, for the offences punishable under Sections 302, 307, 498A and 504 read with Section 34 of the Indian Penal Code.
3. It is not in dispute that the applicants were not residing with the deceased. The learned counsel for the applicants would point out that the statements of the witnesses as regards the oral dying

declaration is a concocted story. The first informant has specifically stated before the police that the deceased was not in a condition to speak. Similarly, the witnesses who went in the hospital have also stated to the police that the she was not in a condition to speak. However, after around twelve days, the statement of witnesses under Section 164 of the Code of Criminal Procedure recorded. That time, they stated that the deceased narrated the incident. He would submit that it was a material improvement. The statement of the witnesses reveal that at the time of the alleged incident, except husband nobody was in the house.

4. Per contra, the learned counsel for the victim would submit that the applicants have played active role in committing the crime. They were supporting the main accused. They were sister and sister-in-law. They were ill-treating the deceased for dowry. The offence is serious. Hence, the applicants shall not be granted bail.

5. Perusal of the fact reveals that there was a material improvements as regards oral dying declaration of the deceased. There is no quarrel over the fact that both applicants and the deceased were residing separately in one and the same *Tanda*. The incident happened in noon. Normally in the village the people used to be in the field in noon. Considering the material placed on

record, there appears a substance in the submissions of the learned counsel for the applicants that improved statement of the witnesses are not in consistent to their earlier statement before the police. The applicants are languishing in jail since February 2023. Applicant No.1 Durga is nineteen years old having a small child. Considering the facts in toto, the applicants deserve bail. Hence, the order:-

- i) The application is allowed.
- ii) Applicants No. (1) Durga Raju Pawar and (2) Sangita @ Gulabi w/o. Vinod Kale, be released on bail, on furnishing PB and SB of Rs.50,000/- each, with one solvent surety of like amount, in C.R.No.64 of 2023 registered with Police Station Manwat, District Parbhani, for the offences punishable under Sections 302, 307, 498A and 504 read with Section 34 of the Indian Penal Code, on the conditions that
 - (a) They shall not tamper with the prosecution witnesses.
 - (b) They shall attend the trial on each effective date.
- iii) Criminal Application No.3048 of 2023 stands disposed of.

**(S. G. MEHARE)
JUDGE**