

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

BAIL APPLICATION NO. 1481 OF 2023

BABAN KONDIRAM PAWAR
VERSUS
THE STATE OF MAHARASHTRA.

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Mr. A.B. Girase, Advocate for the applicant.
Ms. P.V. Diggikar, APP for respondent State
Mr. Ambetkar, Advocate for informant.

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 11th September, 2023

ORDER :-

The applicant seeks regular bail in connection with Crime No. 538 of 2023 registered with Police Station, Pathardi for offences punishable under Sections 302, 364, 201, 143, 147, 148, 149, 504 & 506 of IPC. The investigation was set in motion on the basis of complaint given by one Savita Ramesh Rathod. She alleges that accused Swapnil Rathod resides with his family on the Tanda. Her niece Akshara was residing with him. Daughter of the complainant, namely, Geeta had friendship with Akshara. Akshara had a love affair with a boy at her place and, therefore, she was brought to the Tanda. Swapnil Rathod had suspicion that Geeta helped Akshara to establish contact with her paramour, namely, Kiran Thombre. It is alleged that on 29.5.2023, while informant alongwith her son Rohan and daughter Geeta were at home, Swapnil Rathod, Manisha Chavan, Usha Baban Pawar arrived at her home and persuaded informant to send Geeta with them and took her on motorcycle. Since Geeta did not return back, informant sent her Son Rohan in search of Geeta. After some time, son of the informant Rohan

came back and told her that relative of Swapnil Rathod, namely, Harish Prabhakar and other accused persons were gathered at the house of Harish Prabhakar. They assaulted Geeta using a pipe and gave fist and kick blows. When he intervened, accused persons drove him out of the house. It is further alleged that till late night, informant and her son were waiting for Geeta, but she did not return. Therefore, informant with the help of other relatives searched for Geeta and found that near a well in the field of Dhondiram Rathod, mobile phone, slippers and Scarf of Geeta was lying. Immediately, police was informed. The dead body of Geeta was taken out of the well. Post mortem was carried. As such, it is alleged that accused persons assaulted Geeta and strangled her and then threw her dead body in the well.

4. Investigation progressed based on aforesaid crime. The applicant came to be arrested in pursuance of the registration of the offence on 31.5.2023. The statement of witnesses were recorded and finally charge sheet was filed against in all 9 accused persons including the applicant for the offences as stated above.

5. The plea for grant of bail on behalf of the applicant has been rejected by the Court of Sessions vide order dated 14.7.2023. Hence, this application.

6. Mr. Girase, learned advocate appearing for the applicant would submit that the case of the prosecution is based on circumstantial evidence. Accused Swapnil Rathod, Kiran Rathod, Ajay Jadhav, Abhishek Pawar, Usha Pawar and Manisha Chavan are already released on bail. The interim protection of pre-arrest bail has been granted in favour of

accused Harish Pawar. There is no incriminating evidence against the applicant. Mr. Girase would further submit that the statement of the witness Vishwanath Chavan, Vimal Chavan, Gunabai Rathod, so also, statement of brother of the victim, namely Rohan Rathod would show that initially, there are allegations that accused Harish Pawar gave two blows using pipe on legs of Geeta and slapped her twice. No further incident took place. Thereafter, Geeta and her brother Rohan had left the place and went home on the motorcycle. There is nothing to indicate that any further incident has occurred in which applicant has played any role. He would therefore submit that in absence of the linking evidence, between the cause of death of Geeta and the role played by the applicant, further detention of the applicant would not be necessary. As such, he urged to release the applicant on bail.

7. Learned APP, so also, learned advocate for the informant, vehemently opposes the prayer for grant of bail. They would submit that present incident is a classic example of honour killing. They would submit that the daughter of the present applicant had love affair with her paramour namely Kiran Thombre. It is alleged that deceased Geeta had helped her to meet with her paramour with the help of witness Ramesh Jadhav. For that reason only, the accused persons severely beaten her and caused her death by strangulation. In that view of the matter, they would urge to reject the plea for bail.

8. Having considered the submissions advanced, it is apparent that as many as 9 accused persons are charge sheeted for offence of murder of Geeta. Except the applicant, all other accused are already released on bail. Perusal of the charge sheet would show that except

accused Harish Pawar, no specific allegation are made against any of them. No specific role is attributed against the applicant. It is true that the applicant is the father of Akshara and allegation is enumerated in the charge sheet that because deceased Geeta helped Akshara to meet her boy friend, she has been killed. However, there is nothing on record to indicate that the applicant has played any role in causing death of Geeta. The first incident that is narrated by brother of victim i.e. Rohan depicts that Geeta was beaten using fiber pipe by Harish Pawar and she was slapped. The statement of witnesses shows that after said incident, Geeta and Rohan left the place on motorcycle and reached home. Thereafter, in the wee hours, it is alleged that Geeta was found dead in the well. The material in charge sheet is bereft to clarify as to how Geeta died by strangulation and who is the author of her death. In absence of clinching evidence to bring home the guilt against the applicant, it would not be proper to continue detention of the applicant only based on suspicion although the alleged offence is serious in nature.

9. In that view of the matter, a case is made out to grant bail, however, subject to certain conditions. It is made clear that the observations made hereinabove are prima facie in nature and made only for the purpose of deciding this application. Hence, the order :-

O R D E R

- (i) The Bail application is allowed.
- (ii) Applicant – Baban Kondiram Pawar, be released on bail on furnishing P.B. and S.B. of Rs. 50,000/- with one solvent surety of the like amount, in connection with Crime No. 538 of 2023 registered with Police Station Pathardi, Dist. Ahmednagar, for the offences punishable

under Sections 302, 364, 201, 143, 147, 148, 149, 504 and 506 of IPC on the following conditions :-

- (a) He shall not tamper with the prosecution witnesses.
 - (b) He shall not leave the State of Maharashtra without the permission of Sessions Court, Pathardi.
 - (c) He shall attend the trial on each and every effective date.
 - (d) He shall not enter Pathardi taluka, Dist. Ahmednagar till disposal of Sessions Trial in the present case.
 - (e) He shall visit Pathardi Police Station, once in every week i.e. on every Saturday between 10.00 a.m. and 2.00 p.m. till conclusion of trial.
 - (f) He shall update about his address and contact number with the concerned police station.
- (iii) Application stands disposed of accordingly.

[S.G. CHAPALGAONKAR]
JUDGE

grt/-