

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

BAIL APPLICATION NO.1544 OF 2023

ANNAPURNA BALAJI BANDGAR
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicants : Mr. S.J. Salunke
APP for Respondent : Mr. K.S. Patil

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CORAM : S. G. CHAPALGAONKAR, J.
Dated : September 15, 2023

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ORDER :-

1. The applicant seeks regular bail in connection with Crime No.5 of 2023 dated 13.1.2023 registered with Tadkalas police station, District Parbhani for the offences punishable under sections 302, 363, 364, 201, 120-B, 34 of the Indian Penal Code.

2. The investigation was set in motion on the basis of the information given by Ganesh Bhimrao Dhotre. He alleges that his son Govind aged about 3 years had been to the field of Balasaheb Bandgar alongwith his mother and sister Vedika. At about 5.30 p.m. Govind and Vedika had been to home. After some time, Vedika returned back in the field and informed that Govind is missing. Search was taken for Govind, however, he could not be traced. Therefore, he suspected that unknown persons have kidnapped his son Govind. On the basis of said information, initially the offence under section 363 of the IPC was registered against unknown persons. Investigation was

progressed. During the investigation, accused persons are arrested. The applicant is arrested on 17.1.2023 alongwith her daughter-in-law Kaveri and her husband Balaji. After completion of the investigation, charge-sheet came to be filed. The gist of the accusations against the accused persons is that they had animus in their mind that Gajanan Nivrutti Bandgar (son of accused nos.2 and 3 and husband of accused no.1) died on 3.1.2016 while excavating the well in the field of the informant. The accidental death was recorded. However, accused persons had feeling that the informant's family is responsible for death of Gajanan. Keeping such thoughts in mind, the accused persons killed son of the informant aged about three years. Investigation papers which are made part of the charge-sheet consists of the discovery Panchnama at the instance of accused no.1 Kaveribai by which dead body of deceased Govind has been discovered at the house of the accused. Another evidence is alleged discovery of gold ear rings, rope and clothes at the instance of the applicant/accused no.2. On the basis of such evidence, the accused persons are chargesheeted for the aforesaid offences.

3. The applicant approached the Sessions Court for grant of bail under section 439 of the Criminal Procedure Code. However, the learned Sessions Judge rejected the application vide order dated 19.6.2023. Hence, this application.

4. Mr. Salunke, learned advocate appearing for the applicant would submit that the case of the prosecution is

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based on circumstantial evidence and the alleged motive is death of husband of the accused no.1 Gajanan while working in the field of the informant and animus kept in mind by the accused persons. He would submit that as per the allegations in the charge-sheet, victim Govind was seen in the company of accused no.1. Alleged discovery of dead body is at the instance of accused no.1. The applicant has been roped in only on the basis of alleged discovery of the gold ear rings alleged to have been on the person of the deceased, rope alleged to have been used for strangulation and clothes of the accused persons which were worn by them at the time of commission of offence. Mr. Salunke, would submit that such discovery is improbable. Dead body of the deceased was recovered on 17.1.2023. Thereafter, on 19.1.2023 discovery of aforesaid articles from the same place is sought to be brought on record. He would submit that there is nothing on record to link incriminating articles with the deceased or alleged murder of the Govind. He would submit that the applicant is behind bar from 17.1.2023. Accused no.3 Balaji has been released on bail by order of this Court in BA No.1296 of 2023 dated 8.8.2023. The applicant is a lady aged about 65 years. Further detention of the applicant would not be necessary. Hence, he urges to release the applicant on bail.

5. Learned APP Mr K.S. Patil strongly opposes the prayer for grant of bail. He would submit that the offence is serious. A child aged about three years is killed and his dead body was buried in the house of the applicant. Discovery of

the dead body was made at the instance of the accused no.1, however, some incriminating material is also discovered and seized at the instance of the applicant. Considering motive of the offence, there is sufficient material to show complicity of the applicant in the commission of the offence. He would therefore, urge to reject the bail.

6. Having considered the aforesaid submissions, it can be gathered that entire case of the prosecution is based on circumstantial evidence. Material in the charge-sheet would show that the victim-Govind was seen lastly in the company of the accused no.1 i.e. daughter-in-law of the present applicant. Body of the deceased was exhumed at the instance of the accused no.1. Although, remote motive is sought to be brought on record against the applicant, it would be difficult to bank upon the same. It can be seen from contents of FIR that mother of the victim alongwith accused persons was working together in the field of the accused persons. That shows their cordial relations. Further, death of son of applicant occurred more than 7 years before the date of incident in question.

7. The complicity of the applicant is sought to be brought on record on the basis of discovery of the incriminating articles like gold ring that was worn by deceased Govind, alleged rope used for strangulation and clothes worn by the accused persons at the time of commission of offence. There is nothing to show that either rope or clothes can be linked with the commission of offence. So far as ear-rings are concerned, there is nothing to identify that those were on the

person of Govind when he gone missing. Prima facie, such evidence is bereft to bring home the guilt against the applicant. However, that would be the subject matter of trial. The applicant is behind bar since 17.1.2023. She is a lady aged about 65-66 years. Further detention of the applicant would not be necessary. Hence, the case is made out for grant of bail, subject to certain conditions. These observations are based on prima facie consideration only for disposal of this application. Hence, the order.

ORDER

- i. Criminal Bail Application is hereby allowed.
- ii. The applicant - ANNAPURNA BALAJI BANDGAR be released on bail in connection Crime No.5 of 2023 dated 13.1.2023 registered with Tadkalas police station, District Parbhani for the offences punishable under sections 302, 363, 364, 201, 120-B, 34 of the Indian Penal Code on her furnishing P.B. & S.B. of Rs.50,000/- (Rs. Fifty Thousand), on the following conditions :-
 - a] The applicant shall not tamper the prosecution evidence.
 - b] The applicant shall attend each and every effective date before the trial court.
 - c] The applicant shall cooperate for early disposal of the trial.
 - d] The applicant shall not establish contact with the witnesses named in the charge-sheet.

iii. Bail application is accordingly disposed off.

(S.G. CHAPALGAONKAR J.)

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