

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

**915 BAIL APPLICATION NO.1886 OF 2023**

**SANGITA RAJU RATHOD AND ANOTHER  
VERSUS  
THE STATE OF MAHARASHTRA**

...

Advocate for Applicants : Mr. Karne Gautam Jaywant  
APP for Respondents: Mr. S.B. Narwade.

**CORAM : S.G. CHAPALGAONKAR, J.**

**DATE : 4<sup>th</sup> NOVEMBER, 2023**

**ORDER :-**

1. Applicants seek regular bail in connection with Crime No.174 of 2023 registered with Police Station, Partur, Taluka Partur, Distict Jalna. for offence punishable under Sections 302, 201, 318 r/w. 34 of IPC.
2. At the outset, the learned Advocate appearing for applicant on instruction seeks permission to withdraw bail application so far as Applicant No.1 Sangita Raju Rathod is concerned. He, however, prays to consider the application for applicant No.2.
3. In view of aforesaid submission, the application, to the extent of applicant No.1 is dismissed as withdrawn.
4. The Investigation was set in motion on the basis of information given by one Suraj Rajesh Mankar who states that, he is a Contractor. While passing from house of Arjun Chavan, he found

large number of persons crowded. Therefore, he rushed to the place and noticed that, a new born child (fetus) is laying in a gutter. He found that, it was a female child. Immediately, he informed the police. On arrival of police, investigation was initiated on the basis of registration of Crime No.174 of 2023 for offence punishable under **Section 318** of Indian Penal Code. Investigation progressed. During course of investigation both applicants were arrested on suspicion and finally charge-sheet came to be filed against them for offence punishable under Section 318 & 201 of Indian Penal Code.

5. Learned Advocate appearing for applicant would submit that, applicant No.2 is more than 60 years of age. Evidence on record is bereft to make out any offence against her. In any case, at the most, offence under Section 318 of of Indian Penal Code can be made out against applicant which is punishable with imprisonment for two years.

6. Learned APP strongly opposes prayer for grant of bail.

7. Having considered submissions advanced, apparently FIR was lodged when informant had seen dead body of the newly born child (foetus) in front of house of one Arjun Chavan. After arrest of the applicant No.01 DNA sample was taken which confirmed that, applicant No.01 is the natural mother of new born child. However, evidence on record is bereft to make out any offence against application No.2 under Section 302 or 201 of IPC.

Prosecution relies upon statement of co-accused to bring home guilt of applicant. Prima facie, police statement of co-accused may not be admissible against the applicant No.2. There is nothing in charge sheet except so called confessional statement of co-accused to bring home complicity of applicant accused. The evidentiary value of such statement will have to be determined in trial. In that view of the matter considering age of applicant and nature of evidence which is made part of charge-sheet, a case is made out for grant of bail.

**ORDER**

- 1) The Applicant No.2 – Yashoda Gorakh Chavan, be released on bail in connection with Crime No.174 of 2023 registered with Police Station, Partur, Taluka Partur, Dist. Jalna, for offences punishable under Sections 302, 201, 318 r/w. 34 of the Indian Penal Code on his furnishing P.B. & S.B. of Rs.50,000/- (Rs. Fifty Thousand), on the following conditions: -
  - a) Applicant No.2 shall not tamper with prosecution evidence.
  - b) Applicant No.2 shall attend each and every effective date before trial court till conclusion of trial.
- 2) Bail Application is accordingly disposed off.

[S.G. CHAPALGAONKAR]  
JUDGE

grt/-