

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT NAGPUR, NAGPUR.

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CRIMINAL APPLICATION (BA) NO. 144/2023

Jyoti Nitin Shastrakar

.. Applicant

versus

The State of Maharashtra

Th: Its PSO PS Digras Dist.Yavatmal.

.. Respondent

.....
Mr. S.Sheikh, Advocate for the applicant

Mr.I.J.Damle, APP for Respondent
.....

CORAM: ANIL L. PANSARE, J.

DATED : 2nd March, 2023.

PC:

Heard learned Counsel for the parties.

2. By this Application, Applicant is seeking bail under Section 439 of the Code of Criminal Procedure in Crime No. 132/2022 registered with Police Station, Digras, District Yavatmal, for the offences punishable under Section 364, 302, 201, 120-B read with Section 34 of Indian Penal Code. The FIR has been registered against the Applicant on 23/2/2022. The Applicant has been arrested on 23/2/2022 and since then she is behind the bars.

3. Briefly stated, the prosecution story is that, Laxman Shastrakar, Shrawan Shastrakar and Murlidhar Shastrakar are three real brothers. Laxman's family is accused of committing murder of Shrawan. Murlidhar is informant. The motive behind the murder is illicit relationship between deceased Shrawan and the daughter-in-law of Laxman. The informant has stated that Laxman, his sons Nitin and

Chetan, Jyoti (present applicant) and the friends of Nitin namely, Akash Jadhao, Devanand @ Deva Deorao Waghmare and Pramod Darasing Rathod that they have allegedly kidnapped deceased Shrawan on 9/3/2021 after having hatched conspiracy to eliminate him. Ultimately, the plan has been executed but the exact date is not known.

4. I have considered the rival submissions.

5. Perused record with the help of both the sides. The FIR would only indicate that the deceased Shrawan went missing sometimes on or about 10/3/2021. Thus, after about a year FIR came to be lodged, that too, only on the suspicion that the Applicants and their family might have committed the murder. There are no eye witnesses to the incident. In fact, there is absolutely no admissible evidence, by which it could be said that the Applicant has played any role as alleged by the prosecution. Further, the statement of informant that has been recorded on 15/3/2022 indicates that he had knowledge of the incident in the month of July-2021. He has also stated that at that time he has lodged the report. The statement was recorded by the Police. The said report and statement are not placed on record. Thus, there are many discrepancies in the prosecution evidence. The story put forth by the prosecution appears to be more of suspicion than the reality.

6. Considering the nature of evidence placed on record, though the accusation against the Applicant is serious in nature, it will not be appropriate to compromise her personal liberty.

7. On enquiry, learned Counsel for the Applicant submits that

there are no criminal antecedents against the Applicant. She is a permanent resident of the address mentioned above. Her husband owns immovable properties in his name. Thus, she has strong roots in the locality. The trial is not yet commenced. It will take more time to commence and conclude the trial. The Applicant, therefore, has made out a case in her favour to grant bail.

8. The observations made in this order are *prima facie* in nature and are made for deciding the present Application only. The learned trial Judge, who is seisin of the trial, shall not get influenced with the above observations.

9. Resultantly, following order is passed.

ORDER

(i) Criminal Bail Application is allowed.

(ii) The Applicant – Jyoti Nitin Shastrakar, be released on bail in connection with the Crime No.132/2022 registered with Police Station, Digras, District Yavatmal, for the offences punishable under Section 364, 302, 201, 120-B read with Section 34 of Indian Penal Code, on their executing PR Bond in the sum of ₹ 25,000/- with one solvent surety each in the like amount.

(iii) The Applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or any Police Officer.

(iv) The Applicant shall maintain law and order.

(v) The Applicant shall, at the time of execution of bond, furnish their addresses and telephone/mobile numbers to the Investigating Officer and the Court concerned, and shall not change her residence till the final disposal of the case.

(vi) The Applicant shall regularly attend the court and co-operate the learned trial court to complete the trial for the above offence and shall not seek adjournment except in the extreme circumstances to the satisfaction of the trial Court.

(vii) In case of breach of any conditions, the learned trial court is at liberty to cancel the bail after giving opportunity of hearing to both the sides.

10. Criminal Bail Application is disposed of accordingly.

(ANIL L. PANSARE, J.)

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