

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO.397 OF 2023

Sou. Vandana w/o Vinod Khatte

Vs.

The State of Maharashtra, through Police Station Officer, Police Station, Sindewahi,
District Chandrapur

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. Bhushan Dafle, Advocate for applicant.
Mr. M. J. Khan, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 24/07/2023

1. The present application is for seeking bail under Section 439 of the Code of Criminal Procedure, in connection with Crime No.258/2022, registered with Police Station, Sindewahi, District Chandrapur for the offences punishable under Sections 302, 201, 506 read with Section 34 of the Indian Penal Code.

2. The accusation against the present applicant is that she is the daughter of the deceased. There was a dispute between the deceased Tanabai and the present applicant on account of entering the name in the agricultural land which was the possession of the deceased. It is alleged that as deceased has initiated the civil suit against the present applicant and the co-accused and also issued the notice, therefore, the present applicant and the co-accused got annoyed and

committed the murder of the deceased. The crime is registered on the basis of a report lodged by Ranjana Sonwane, another daughter of the deceased.

3. As per the contention of the present applicant, there is no direct or circumstantial evidence against the present applicant to connect her with the alleged offence, except the extra judicial confession. As far as the dispute between the applicant and the deceased is concerned, admittedly, the deceased has issued the notice to her but she is not concerned with the alleged crime. Now, the investigation is completed and the chargesheet is filed. Her further custody is not required. The co-accused with the similar allegation is released on bail. Thus, the ground of parity is also available to the present applicant and hence, she be released on bail.

4. The said application is strongly opposed by the State on the ground that there was a previous dispute on account of mutation in respect of the field owned by the deceased. The legal heirs of the deceased have mutated their names during her lifetime and when the deceased came to know about the same, she issued the notice to the present applicant and her daughter-in-law for deleting their names from the revenue record and on the pretext there was a dispute between them. It is further alleged that there was quarrel between the

present applicant and co-accused and the deceased on the earlier day of the incident and the accused persons have threatened her to keep quiet. Thus, there is *prima facie* material against the present applicant. The death of the deceased is caused due to smothering. The previous quarrel between the deceased and the present applicant and the circumstance that the present applicant has made extra judicial confession is sufficient to show the involvement in the alleged crime and hence, the application deserves to be rejected.

5. Heard learned Counsel Mr. Dafle for the applicant. He reiterated the contention and submitted that the co-accused is already released on bail, so on the ground of parity, the present applicant is also entitled for bail. As the similar allegations are levelled against the present applicant. He further submitted that though there was a dispute between the applicant and her mother but there is no reason for her to commit the murder of her own mother. As far as the previous quarrel is concerned, there is no direct evidence to show that on the previous day, there was a quarrel between them. Now, the investigation is completed and the chargesheet is filed. Further custody of the present applicant is not required and therefore, she be released on bail.

6. The learned APP strongly opposed the application and submitted that though there is no direct evidence against the present applicant but the extra judicial confession given by the present applicant to her own sister and the statements of the witnesses show that there was a previous dispute between the present applicant and the deceased are the sufficient circumstances to connect the present applicant with the alleged offence. If, she is released on bail, she will tamper with the prosecution evidence and hence, the bail application deserves to be rejected.

7. Having heard the learned Counsel for the applicant as well as the learned APP and after going through the investigation papers, admittedly, there is no direct evidence against the present applicant as well as the co-accused. The role assigned to the present applicant is that she has committed the murder of her own mother as there was a dispute between the present applicant and the deceased on account of mutation. As the present applicant has mutated her name and the name of the co-accused and other legal heirs on 7/12 extract of the agricultural land which is allotted to the deceased. The statements of the witnesses show that the present applicant and other co-accused were in the village on the earlier day of the incident. The deceased has also made a phone call to her another daughter and disclosed her apprehension that there is every likelihood

of quarrel between her and the present applicant, as she has issued the notice. It further reveals from the investigation papers that present applicant has made extra judicial confession to her sister which discloses her involvement in the incident. As far as the admissibility of the extra judicial confession is concerned, it is well settled that it is a weak type of evidence and corroboration is required. However, it is the part of the trial. Whether the extra judicial confession is corroborated by the other evidence or not can be ascertained at the time of trial. At this stage, except extra judicial confession admittedly, there is no other direct evidence or evidence of the circumstantial nature to connect the present applicant with the alleged offence. Now, the investigation is completed and the chargesheet has been filed. The charges are not yet framed. The trial will take its own time to conclude. There are no criminal antecedents against the present applicant. Considering that, the co-accused against whom the similar allegations are levelled is already released on bail, therefore, the ground of parity is also available to the present applicant. In view of that, the application deserves to be allowed by imposing certain conditions. Hence, I proceed to pass following order.

(i) The application is allowed.

(ii) The applicant **Sou. Vandana w/o Vinod Khate** is released on bail in Crime No.258/2022, registered with Police Station, Sindewahi, District

Chandrapur for the offences punishable under Sections 302, 201 and 506 read with Section 34 of the Indian Penal Code, on executing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(iii) The applicant shall not induce, threat or promise any witnesses who are connected with the alleged crime.

(iv) The applicant shall furnish her cell phone number and address with the address proof.

(v) The trial Court shall not be influenced by the observation of this Court regarding the appreciation of the extra judicial confession.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

Sarkate