



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

CRIMINAL APPLICATION (BA) NO.879 OF 2023
(Lakhanlal Mangru Lilhare Vs. State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. B. Sachdev, Advocate h/f Mr. S.G. Karmarkar, Advocate for the applicant.
Mr. N. Joshi, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- DECEMBER 18, 2023.

Heard.

2. By this application, the applicant is seeking bail under Section 439 of the Code of Criminal Procedure in connection with Crime No.56/2023, registered with Police Station Salekasa, District Gondia for the offence punishable under Sections 302 and 201 of the Indian Penal Code.

3. The applicant is arrested on 04/03/2023. Since then he is behind bar.

4. The accusation against the present applicant is that the informant has lodged report that the deceased was her married daughter and was residing at Paraswada, Tahsil Lanji, District Balaghat. The dead body of her daughter was found lying near pond and people were gathered there. Initially, she had lodged the report against the unknown person. During investigation, it revealed that the deceased was having illicit relations with the present

applicant. It is further alleged that due to the said illicit relations, present applicant has taken her and committed her murder. On the basis of said report, police have registered the crime and arrested the present applicant.

5. Learned Counsel for the applicant submitted that except the allegation that there was illicit relationship between the deceased and the present applicant, there is absolutely no material collected during the investigation to connect the present applicant with the alleged offence. Though daughter of the deceased is along with them but she has neither described the description of the person who took the deceased, therefore, there is no material as far as the last seen concerned. Except the CDR report which allegedly shows that there was communication between the deceased and the present applicant prior to the incident, no other material is collected by the investigating agency.

6. Now, investigation is completed and charge-sheet is filed. Further incarceration of the present applicant is not required. Considering the material as there is no direct evidence against the present applicant to connect him with the alleged offence, he be released on bail.

7. Learned Additional Public Prosecutor strongly opposed the application on the ground that from the CDR report it reveals that there was a constant communication between the deceased and present applicant and

subsequently dead body of the deceased was found. Daughter of the deceased has seen the present applicant with the deceased. Thus, last seen evidence and the CDR report and the *prima facie* material against the present applicant, in view of that the application deserves to be allowed.

8. Having heard learned Counsel for the parties. Perused the investigation papers. From the recitals of the FIR it reveals that on 4th March, 2023, neighbour of the informant came to her house and shown the photograph and asked her whether she identified the woman who is in the photograph and also told her that the dead body of the said woman who is shown in the photograph is lying near the pond. The informant identified her as her daughter and lodged the report against the unknown person. During the investigation, the Investigating Officer has recorded various statements of the witnesses and also collected the CCTV footage.

9. Learned Additional Public Prosecutor submitted that in CCTV footage, the present applicant was seen while purchasing the liquor. The death of the deceased is due to the various injuries on her person and probable cause of death ascertained by the Medical Officer is death due to head injury. As far as the investigation material is concerned, except the statement of the daughter of the victim, no other material is collected or revealed during the investigation. The statement of the

daughter of the victim is only to the extent that she, her mother and one unknown person proceeded and behalf and thereafter her mother went in the forest along with said person. She has not described the description of the said unknown person. Thus, it is apparent that merely on the basis of suspicion, the present applicant came to be arrested.

10. Considering the nature of the material collected during the investigation, at this stage, no *prima facie* case is made out against the present applicant and considering the investigation is completed and charge-sheet is filed, the bail application of the present applicant deserves to be allowed by imposing certain conditions. Hence, I proceed to pass the following order :

(i) The application is allowed.

(ii) The applicant – Lakhanlal Mangru Lilhare in connection with Crime No.56/2023, registered with Police Station Salekasa, District Gondia for the offence punishable under Sections 302 and 201 of the Indian Penal Code, be released on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one surety in the like amount.

(iii) The applicant shall attend concerned police station once in a month i.e. on first

Sunday of every month between 10.00 a.m. to 1.00 p.m. till culmination of the trial.

(iv) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.

11. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*