

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

CRIMINAL APPLICATION (BA) NO. 1 OF 2023

(Sau. Ranjana w/o Panjabrao Devkar Vs. State of Maharashtra)

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

Court's or Judge's orders.

Shri Nitesh Samundre, Advocate for the applicant.
Shri A.M. Kadukar, Additional Public Prosecutor for the
non-applicant/ State.

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CORAM : ANIL L. PANSARE, J.
FEBRUARY 6, 2023.

Heard.

2] This is an application filed under Section 439 of the Code of Criminal Procedure, 1973. The applicant has been arrested on 22/11/2021 in Crime No. 587/2021 dated 16/11/2021 registered with the Police Station – Kalamb, District – Yavatmal for the offences punishable under Sections 302, 363, 364, 451, 201 and 120B read with Section 34 of the Indian Penal Code, 1860.

3] Having heard both the sides and having gone through the record, it appears that in all nine persons have been arrested in the crime. The law was set in motion by the wife of the deceased when she approached the Police Station and lodged the First Information Report on 16/11/2021 mentioning therein that on 15/11/2021 at about 9:30 pm, four unknown persons entered the house of the informant and kidnapped her husband Suresh (deceased). She followed

them. She found that one Maruti Ertiga car was standing in front of her house. Two persons were sitting in the car. These four persons forced Suresh to sit in the car. Thus, in all, six persons kidnapped Suresh. The First Information Report was accordingly lodged against six unknown persons. The dead body of the husband of the informant was found on 17/11/2021 in Wardha river. The mouth of the deceased was wrapped tightly. The informant identified the body to be of her husband. The prosecution claims that during the course of investigation, it was revealed that the applicant and others are also involved in the crime. The applicant is the one who entered in criminal conspiracy to eliminate the husband of the informant.

4] The learned Counsel for the applicant submits that the informant has not mentioned the name of the applicant in the First Information Report. No overt act is attributed to the applicant. She has been picked-up and arrested only on the count that she has conspired to eliminate the husband of the informant. According to him, no offence against the applicant is made out.

5] As against, the learned Additional Public Prosecutor has referred to the statement of the brother of the deceased Ramesh. The statement is recorded on 16/11/2021. He states that accused No.1 Sunil Kuchankar had an illicit relationship with the applicant, who is the elder sister of the wife of the witness. Accused No.1 is also a relative of the witness. The witness was also suspecting illicit relationship between his wife and

accused No.1. The witness has stated before the Police that on 5/11/2021, accused No.1 assaulted the witness and beat him by kick and fist blows. Accused No.1 said to the witness that he is in love with Ranjana. He said that the brother of the witness Suresh (deceased) should not trouble Ranjana else he will kill him. The witness then stated that at that time, Ranjana has also asked the witness to properly advise Suresh. It appears that Suresh was annoyed with the relationship of accused No.1 with Ranjana. The learned Additional Public Prosecutor submits that immediately after ten days of the aforesaid incident the brother of the witness was murdered on 15/11/2021 and that therefore there is every reason to believe that the applicant has conspired to commit murder.

6] The statement referred to by the learned Additional Public Prosecutor would only show that there occurred quarrel between Ramesh, the brother of the deceased and accused No.1. So far as the applicant is concerned, she has allegedly informed the witness Ramesh to properly advise his brother Suresh. This statement by itself cannot be said to be the evidence to prove complicity of the applicant with the crime that occurred on 15/11/2021. The chargesheet has been filed and that therefore additional evidence was expected to blame the applicant for serious offence of committing murder of brother of the witness Ramesh.

7] The learned Counsel for the applicant submits that similarly placed accused namely accused

No.3 Mithun, accused No.5 Vijay, accused No.7 Kiran and accused No.8 Amol have already been released on bail (accused Nos. 3, 5 and 7 by the learned Additional Sessions Judge, Yavatmal and accused No.8 by this Court). Though the learned Additional Public Prosecutor has objected the bail application, there appears no reason as to why the applicant should not be released for the reasons stated in the earlier paragraphs so also on the ground of parity.

8] When inquired, the learned Counsel for the applicant submits that there are no criminal antecedents against the applicant. He further states that the applicant is residing in the house owned by her. Thus, the applicant has strong roots in the Society. She is having two children. The charge has not yet been framed. It will take time to commence and conclude the trial. In the circumstances, no purpose will be served by keeping the applicant behind the bars. She is entitled to be released on bail.

9] The observations made in this order are *prima facie* and are made for deciding the present application only.

10] Hence, the following order is passed :

ORDER

i] The application is allowed.

ii] The applicant – Ranjana w/o Panjabrao Devkar be released on bail in Crime No. 587/2021 dated 16/11/2021 registered with the Police Station – Kalamb, District – Yavatmal for the offences punishable under

Sections 302, 363, 364, 451, 201 and 120B read with Section 34 of the Indian Penal Code, 1860 on her furnishing PR. Bond in the sum of Rs.25,000/- (rupees twenty five thousand) with one solvent surety in the like amount.

iii] The applicant shall at the time of execution of bond furnish her address and telephone/ mobile number/s to the Investigating Officer and the Court concerned and shall not change her residence till final disposal of the case.

iv] The applicant shall regularly attend the Court and co-operate the trial Court to complete the trial for the aforesaid offences. The applicant shall not seek adjournment except under extreme circumstances to the satisfaction of the trial Court.

v] 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.

vi] The applicant shall maintain law and order

vii] In case of breach of any condition, the trial Court is at liberty to cancel the bail after giving opportunity of hearing to both the sides.

11] The application is disposed of in the above terms.

(ANIL L. PANSARE, J.)