



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

902 BAIL APPLICATION NO. 178 OF 2024

1. Lalsing Khema Valvi
2. Shivaji Khema Valvi
3. Dama Khema Valvi

..APPLICANTS

-VERSUS-

The State of Maharashtra

..RESPONDENT

...
Advocate for Applicants : Mr. Savale Amit S.

APP for Respondent/State : Mr. Mukesh K. Goyanka

...

CORAM : SANJAY A. DESHMUKH, J.
DATED : 15th MARCH, 2024.

PER COURT :-

1. The learned advocate for the applicants seeks leave to place on record copy of the charge-sheet. Leave granted. Copy thereof is supplied to other side.

2. The applicants are seeking bail under section 439 of the Criminal Procedure Code, 1973 (for short, "Cr.P.C."). The applicants have been arrested in connection with crime No.140 of 2023 registered with Dhadgaon Police Station, Dist. Nandurbar, for the offences punishable under sections 302, 143, 147, 148, 149 of the Indian Penal Code read with section 37(1)(3) and 135 of the

Maharashtra Police Act.

3. Informant – daughter of deceased Ruma Tadvil lodged the report alleging that her father is murdered by these applicants and co-accused in order to take revenge of their brother, who was murdered by her father. Her father was arrested and before 7 months of the incident dated 12.06.2023, he was released on bail. There was grudge in the mind of the applicants and other co-accused. In order to save him, her father went to stay with cousin Kalya Vasave. The marriage of Vanya Valvi, resident of Mal was scheduled on 12.06.2023, therefore, the informant, her family members and deceased Ruma went there to attend the marriage. At about 1.30 p.m., when her father was sitting under a Mahu tree, the applicants and others total 7 accused went there with bamboo sticks and iron rod. They said that now they will eliminate him. Applicant no.1 – Lalsing assaulted him on his head by iron rod, applicant no.2 – Shivaji assaulted on his head and back by bamboo stick. Her father fell down. Applicant no.3 Dama cut down left wrist of father of informant. Other accused assaulted him by fist and kick blows. Her father was making hue and cry. Peoples gathered for attending the marriage ran away. Informant and others tried to rescue her father, but the applicants and other co-accused tried to assault them. Therefore, they all ran away. After some time, they went there when

accused ran away and took Ruma to the hospital, who succumbed to the injuries on the spot.

4. Learned counsel for the applicants submitted that co-accused are released on bail. Investigation is over. Trial will take long period. The applicants will not flee away from the trial. The applicants have no criminal antecedents. It is lastly prayed to allow the application. The learned advocate for the applicants is relying upon the authority of the Hon'ble Supreme Court in the case of **Sanjay Chandra Vs. Central Bureau of Investigation** reported in **AIR 2012 SC 830**.

5. Learned A.P.P. for the respondent-State has strongly opposed the application and submits that role of the applicants not only in the report but in the statements of the eye witnesses. He further pointed out the nature of injuries sustained to Ruma from the postmortem report. The incriminating articles are seized. The applicants' involvement in the commission of murder is serious act. He, therefore, prayed to reject the application.

6. Perused the charge-sheet, particularly the report and the statements of the witnesses as well as postmortem report. Applicant no.1-Lalsing assaulted Ruma on his head by an iron rod. Applicant

no. 2 - Shivaji assaulted Ruma on his head and back by bamboo stick. However, applicant no.3 – Dama assaulted Ruma and broken his left wrist. Rest of the co-accused assaulted Ruma by fist and kicks blows. As far as role of the applicant nos.1 and 2 is concerned, they have assaulted Ruma on his head. Their overt act is prima facie serious. They planned to commit the murder of Ruma. Therefore, the authority of **Sanjay Chandra (cited supra)** is not helpful to these applicants that only for securing the appearance of the accused bail cannot be denied as it is neither punitive nor preventative.

7. The Hon'ble Supreme Court in the authority of **Deepak Yadav Vs. State of Uttar Pradesh and another, (2022) 8 SCC 559** **Shahzad Hasan Khan Vs. Ishtiaq Hasan Khan and another, (1987) 2 SCC 684** guided in which cases bail shall be granted or refused. Considering the role of applicant nos.1 and 2, their possibility of commission of same nature of crime and pressurize the witnesses cannot be ruled out. Considering all these aspects and serious nature of the crime for which imprisonment for life or death penalty is prescribed, the application of the applicant nos.1 and 2 deserves to be rejected.

8. As far as applicant no.3 is concerned, considering his role that he broken left wrist of Ruma and fact that other co-accused

are released on bail by the trial Court, he can be released on bail on certain stringent conditions. The application, therefore, deserves to be partly allowed. Hence, the following order.

O R D E R

- I. Application is partly allowed.
- II. The applicant no.3 – Dama Khema Valvi in connection with crime No.140 of 2023 registered with Dhadgaon Police Station, Dist. Nandurbar, for the offences punishable under sections 302, 143, 147, 148, 149 of the Indian Penal Code read with section 37(1)(3) and 135 of the Maharashtra Police Act be released on bail on furnishing personal bond of Rs.50,000/- with one surety of the like amount on following conditions:-
 - a) He shall not pressurize the prosecution witnesses and tamper the prosecution evidence in any manner.
 - b) He shall not enter into village Bijri, Tq. Dhadgaon, Dist. Nandurbar till the conclusion of trial.
- III. If breach of any of the above conditions is committed by applicant no.3, the trial Court is at liberty to proceed further to cancel the bail of this applicant without reference to this Court.
- IV. The application of applicant nos.1 and 2 is rejected.

(SANJAY A. DESHMUKH, J.)