



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

910 BAIL APPLICATION NO. 384 OF 2024

Gokul Gotiram Jadhav
VERSUS
The State of Maharashtra

Advocate for Applicant : Mr. S.D. Hiwrekar
APP for Respondents: Mr. Satish A. Gaikwad

CORAM : SANJAY A. DESHMUKH, J.
DATED : 4th APRIL, 2024.

PER COURT :-

1. This is an application for granting bail under section 439 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C.") in connection with crime No. 375 of 2023 registered with Pahur police station, District Jalgaon for the offences punishable under Sections 302, 201 of the I.P.C. His application with similar prayer bearing criminal bail application No. 1057 of 2023 came to be rejected by the learned Additional Sessions Judge, Jalgaon, vide order dated 29.1.2024.

2. Dr. Sandipan Bhikan Kumawat lodged a report that he is a Medical Officer of Primary Health Center, Wakod, Tq. Jamner, district Jalgaon. It is averred in the report that there are 29 villages where he is having duty and there are Asha Sevikas who frequently visit the homes of newly born babies for their check up. On 12.9.2023, one Asha Sevika Mangla Jadhav, R/o. Harinagar Tanda, Wakod, Tq.

Jamner came to him and intimated him that wife of this applicant Bhulabai delivered a baby girl on 2.9.2023. Health of said Bhulabai and the baby girl was good. On 11.9.2023, when Asha Sevika Mangala Jadhav had been to the house of the applicant and enquired with him about the health of baby girl, the applicant told her that his daughter died on 10.9.2023 in the evening because of high temperature. She went into the house but the baby girl was not there. She went in his house and on detail enquiry when the applicant was questioned as to why the child was not brought to the doctor and shown to her, at that time, the applicant said that when he was taking his baby girl to the hospital, but she died during journey. Thereafter, he confessed that he had committed blunder because he begotten two daughters earlier. He put tobacco in the mouth of that baby girl and thereafter committed her murder by throttling. He had shown the place where that baby was buried. Thereafter, the informant lodged the report. The exhumation was conducted. Statements of the witnesses were recorded.

3. Learned advocate for the applicant submitted that there is no eye witness to the incident. The applicant is falsely implicated in the crime. The prosecution case is based on hearsay evidence. There is no final opinion of homicidal death of baby girl of the applicant. The applicant has roots in the society, he will not flee away from trial, the trial will take a long period. It is lastly prayed to allow the application.

4. Learned A.P.P. for the respondent-State has strongly opposed the application and submitted that he is prosecuted for serious crime of murder of newly born baby girl. There is evidence of his wife which shows that the conduct of this applicant that he committed murder of his daughter. If the daughter was suffering from high temperature, naturally it was expected that the applicant could have brought the said baby girl to the doctor for treatment but instead of treating, she was buried. There is strong circumstantial evidence against the applicant. The incident took place in his house and he has not stated anybody about that incident immediately after it was occurred. It is lastly prayed to reject the application.

5. Perused the charge sheet, particularly the report and statements of witnesses. The subsequent conduct of the applicant is decisive and that the opinion of the expert is reserved as to the cause of death of baby girl. There is prima facie serious and strong evidence against the applicant. Though the applicant is having 40% disability to his leg, that cannot be a ground to release him on bail. It is antisocial and heinous crime as an innocent baby girl has been murdered by the father only because he is having two more daughters. If the applicant is released on bail, the possibility of pressurizing the prosecution witnesses cannot be ruled out. Therefore, considering the ratio and the guidelines laid down by the Hon'ble Supreme Court in the cases of ***Deepak Yadav Vs. State of Uttar Pradesh and another, (2022) 8 SCC 559*** and ***Shahzad***

Hasan Khan Vs. Ishtiaq Hasan Khan and another, (1987) 2 SCC 684 and peculiar facts of this case, the applicant is certainly not entitled for bail. The application deserves to be rejected. The application is accordingly rejected.

6. As far as the financial condition of the wife of applicant is concerned, she is not having any source of income. She is having two daughters. The wife of the applicant and those two daughters are also the victim of the crime. Therefore, considering the facts and circumstances of the case, it would be proper to direct the Tahsildar, Jamner to provide financial relief to the wife and two daughters of the applicant, under various schemes floated by the State Government like *Shravan Bal Yojna, Eklavya Yojna* etc. Those schemes are for providing monetary relief to such persons who are facing financial problems due to poverty. Therefore, monthly financial relief can be provided to them. The Secretary, District Legal Services Authority, Jalgaon and the officials are directed to help the wife of the applicant to submit an application before the Tahsildar, Jamner. For that purpose, call her to the office of the District Legal Services Authority, Jalgaon. The Tahsildar, Jamner is directed to comply with the formalities for providing financial relief to the wife and daughters of the applicant continuously.

7. The Registrar (Judicial) of this Court to communicate this order to the Secretary, District Legal Services Authority, Jalgaon for

compliance and report the same to this court. List the matter for compliance on 8.5.2024.

8. Learned advocate for the applicant seeks leave to file an application for bail before the trial court after receipt of the final opinion as to the cause of death. The liberty, as prayed for, is granted.

(SANJAY A. DESHMUKH, J.)

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