



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
BAIL APPLICATION NO.424 OF 2024**

Raibhan S/o. Kashinath Thorat
Age: 46 years, Occ: Labour,
R/o. Kobapur, Tq. Gangapur,
Dist. Aurangabad.

..Applicant

Versus

The State of Maharashtra,
through the Police Officer,
Gangapur Police Station,
Tq. Gangapur, District Ahmednagar.

..Respondents

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Mr. V. S. Wakale, Advocate for the Applicant.
Mr. S. B. Jadhav, APP for Respondents-State.

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CORAM : S. G. CHAPALGAONKAR, J.

RESERVED ON : 28th JUNE 2024.

PRONOUNCED ON : 03rd JULY 2024.

ORDER:-

1. The applicant seeks regular bail in connection with Crime No.144/2023 registered with Gangapur Police Station, Dist. Aurangabad for the offences punishable under Sections 302, 201, 376(2)(N), 394, 506 r/w 34 of the Indian Penal Code.

2. On information given by Gauri Santosh Charawande, resident of Shirasgaon Shivar, Crime No.144/2023 has been registered on 05.04.2023 for aforesaid offences against the applicant and two others.

3. In nutshell, informant alleges that she resides at aforesaid place alongwith her husband and two daughters. The applicant is their neighbour. About two years before incident, her husband and applicant consumed liquor and had dinner at informant's

home. After 4 to 5 days, applicant entered in the house, locked door and ravished her. Thereafter, whenever she was alone at home, the applicant raped her. The informant shifted to Jaisinghnagar at Gangapur in a rented premise. Applicant followed her and continued to rape her. About 15 days prior to the incident when applicant forced her for sex, informant's husband dropped in. On his arrival applicant flee way. At that time informant disclosed her husband about applicants conduct towards her. On 01.04.2023 while her husband was sitting on platform of house, applicant abused her husband and dragged him towards well, assaulted him by iron rod, and pushed him into the well. On her persuasion, applicant took him out of well. He snatched gold chain and earrings from her person. Then called Nitin Pardeshi, vehicle owner for taking her husband to hospital but before arrival of vehicle her husband lost his life. Because of threats of the applicant, she did not disclose incident to anyone and performed last rites, thereafter, lodged the complaint. The applicant came to be arrested on 06.04.2023. On completion of investigation, charge-sheet is filed for offences punishable under Sections 302, 201, 376(2)(N), 394, 506 r/w 34 of the Indian Penal Code.

4. Mr. Wakale, learned Advocate appearing for the applicant submits that the prosecution case does not inspire confidence. The applicant alleges that she was raped since last two years, but not lodged complaint. The FIR is lodged after four days of the incident. The postmortem report is not available to depict actual cause of death. The last rites of the deceased was performed in the presence of many relatives. However, there is no explanation for the delay in lodging the FIR. According to him, the false story has been hatched against the applicant. He would further submit

that two other accused persons are already enlarged on bail by orders of this Court. The applicant is behind the bar for more than 15 months. He has no criminal antecedents. Therefore, he urges to enlarge the applicant on bail.

5. Per contra, Mr. Jadhav, learned APP strongly opposes prayer contending that the charge is framed in trial. Because of non-cooperation of the applicant, it has been prolonged. The allegations against the applicants are serious in nature. This is a case of rape and murder. The applicant is culprit. The contents of the FIR are supported by the statements of the daughters of the victim.

6. Having considered submissions advanced, it can be observed that so called incident took place on or about 01.04.2023 at about 10.30 pm. The incident is reported to police on 05.04.2023 at about 22.00 hours. There is delay of four days in lodging FIR. Even prior to the lodging of FIR, last rite of deceased were by informant and family members on 02.04.2023 at about 12.00 pm. There is no explanation for inordinate delay in lodging FIR. In absence of postmortem report, it is difficult to gather the actual cause of death. The contents of the FIR varies on the material particulars with the statements of daughters belatedly recorded after eight days. No explanation for delay in recording statements coming forward.

7. The statements of the other witnesses namely Ramkisan Charawande, Sachin Pardeshi depict that altogether different narration of incident was given to them by informant stating that deceased fell into well while he was drunk and suffered injuries resulting leading to his death. However, later on the improved

version of incident was introduced to the witnesses. Although there is recovery of some articles, it is difficult to link applicant with the alleged incident. The applicant is behind bar since 05.04.2023. The trial would take its own course. In that view of the matter, further detention of the applicant is not necessary. Hence, case is made out for grant of bail. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Raibhan S/o. Kashinath Thorat be released on bail in Crime No.144/2023 registered with Gangapur Police Station, Dist. Aurangabad for the offences punishable under Sections 302, 201, 376(2)(N), 394, 506 r/w 34 of the Indian Penal Code on furnishing P.B. and S.B. of Rs.50,000/- (Rs.Fifty Thousand only) on following condition:
 - a. The applicant shall not tamper with the prosecution evidence in any manner.
 - b. The applicant shall attend each and every effective date before Sessions Court.
 - c. The applicant shall not enter village Shirasgaon Shivar, Taluka Gangapur till conclusion of trial.
- (iii) Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE