



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

26 BAIL APPLICATION NO. 1719 OF 2024

SUNITA W/O GANESH JADHAV

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

WITH

CRIMINAL APPLICATION NO. 4262 OF 2024

IN BA/1719/2024

...

Advocate for Applicant : Mr. Doifode Bharat Sahebrao.

APP for Respondents-State : Mr. S. B. Pulkundwar.

Advocate for Informant to assist APP : Mr. Shaikh Sohail
Subhedar.

CORAM : S. G. MEHARE, J.

DATE : 21.10.2024

PER COURT :-

1. Heard the learned counsel for the applicant, learned APP for the respondents-State and learned counsel for the informant.
2. The applicant seeks bail in Crime No.111 of 2024, registered with Devgaon Rangari Police Station, District Aurangabad, for the offences punishable under Sections 137(2), 103(1) of the Bhartiya Nyaya Sanhita.
3. The prosecution has a case that the parents of the deceased child used to go for work and keeping the child with the applicant. On the day of the incident, as usual, she left the

house. However, when she returned to home, the child was not seen. She thought the child went some where. The parents searched the child, but they did not find. However, some days later, the applicant gave the extra judicial confession to her husband and relatives. The parents of the deceased stated that she took the deceased towards the well and threw him into the well. She had a grievance that her son had some serious problem of eyes. The father of the deceased was not giving money for tractor and crops. She was operated of uterus and now she unable to deliver a child. Therefore, she was hoping that if the deceased child is killed, the entire property would be in the name of her son.

4. Learned counsel for the applicant submits that she never stated as alleged before the incident. She has no grievance against the deceased child. Probably, the child might have gone towards the well which has no parapet wall. There is no inquiry about the foot prints of the fully grown person going towards the well. Since the child was left with her by her parents, she has been falsely implicated in the crime. The allegations of her desires to grab the entire property were their surmises. Nothing is to be recovered from her. Hence, she may be granted bail.

5. Learned APP and the learned counsel for the informant would submit that her extra judicial confession before her relatives connect her with the crime. The well where the child was thrown was unused and surrounded by the bushes where a child of four years cannot reach. She also disclosed the motive to kill the child. Dead body of the child was found floating in the well. Her acts were intentional. Hence, she may not be granted bail.

6. Considering the allegations levelled against the applicant, there was no dispute that the deceased child was not left with her for the first time. His parents were regularly leaving the deceased child with her to look after him in the absence of his parents. It need not to mention the evidentiary value of the extra judicial confession before the relatives. Particularly, the person who is aggrieved of the acts of the accused. The police did not search the foot marks of the fully grown up person nearby the well which has no parapet wall. Considering these facts and allegations levelled against the applicant, at this juncture, it would be difficult to accept that the applicant was the person, who threw the deceased child into the well. There are no allegations of using weapon. The case is based on the circumstantial evidence. She has been

interrogated. Investigation against her appears materially completed. She has no antecedents to her discredit. Therefore, no purpose would be served by keeping her behind bar. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant **SUNITA W/O GANESH JADHAV** be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of like amount, on the following conditions :
 - (a) The applicant should not tamper with the prosecution witnesses.
 - (b) She should attend the Police Station as and when called on written notice by the Investigating Officer till filing the charge sheet. Thereafter, she should attend the trial on each and every effective date.
- (iii) Criminal Application to assist learned APP stands disposed of.

(S. G. MEHARE, J.)

...

vmk/-