

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1452 OF 2024
WITH
CRIMINAL APPLICATION NO. 3820 OF 2024

Kavita Sarangdhar Pawase And Another

VERSUS

The State Of Maharashtra

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Advocate for Applicant : Mr. Bhide Vinod Y.

APP for Respondent/State : Mr. A.S. Shinde

Advocate for Complainant : Mr. Hemant U. Dhage

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CORAM : S.G. MEHARE, J.

DATED : SEPTEMBER 10, 2024

PER COURT:-

1. Heard learned counsel for the applicant, learned APP for the State and learned counsel for the Complainant.
2. Advocate Mr. Dhage has no right to address the Court opposing the bail application as he is not the victim as defined in the Criminal Procedure Code. At the most, he may assist the learned APP.
3. The applicant seeks bail in Crime No.340 of 2024 registered with Sangamner Police Station, District Ahmednagar for the offences punishable under Sections 302 r/w 34 of the Indian Penal Code.
4. It is a case like exhumation i.e. digging the things which were done finally. Applicant no.1 was a widow. She had two children. It has been alleged against applicant no.1 that she had relationship with

applicant no.2. On 17.04.2024, applicant no.1 with her two sons had been to one field having artificial lake. Both children drown there. Few boys came there to save the children, but they could not. A.D. was registered. The investigation was done. The investigation agency was satisfied that it was an accidental death. Two months thereafter, the villagers woke up. They organized morchas, blocked the highways and forced the police to register the crime for the above offences. Pursuant to the registration of the crime, both applicants were arrested and now languished in jail.

5. Learned counsel for the applicants submits that it was purely an accidental case. However, the villagers made it their prestige issue. They did not like the relationship interse between the applicants. The false allegations were made that the children were eliminated to nourish their relationship. No weapon is used. It was purely an accidental case of drowning. He further argued that for no reasons, the prosecution has been lodged against the applicants.

6. Learned APP has strongly opposed the application. He argued that the circumstances and the conduct of the applicants show that the children were deliberately drowned. A false story of accidental death was cooked. Applicant no.1 was operated for Reverse Tubal Sterilization for procuring a child. Since she was a widow, she has no reason to undergo such surgery. That goes to show that she wanted to have children from applicant no.2. Therefore, they

eliminated the children. He also argued that in a statement of the witness during the accidental case inquiry, a doubt was expressed. However, the police did not take it serious. The conduct of the applicants is material. They had no reason to go to the artificial lake which was 15 km away from the village. He also argued that for a illicit relationship, two children have lost the life. The circumstances against the applicants are strong. Hence, they do not deserve bail.

7. It seems from the record and the arguments of the learned APP that the villagers were annoyed with the relationship between the applicants. The learned APP could not explain what prevent applicant no.1 to undergo Reverse Tubal Sterilization. To give a birth to a child is an honour for women in India. She has a right to deliver or not to deliver the child. She was a widow. Probably, she may be in search of a support from male applicant no.2 and met him. Both applicants have no grievance against each other. There were no complaints against them that before the incident, the children were ill-treated. Every citizen has a liberty to live as per her or his choice. Unless a third person is directly or indirectly aggrieved, no law can be put into motion. However, in criminal jurisprudence, the citizen of the country is allowed to put the law into motion. It is very difficult to understand why the villagers were observing strikes and pressuring the police to register the crime. This seems to be a hidden interest of the villagers. A third person who has no direct concern with the

applicants put the law into motion. A detail investigation was done during the accidental death. The conduct of applicant no.1 was natural. She asked for help. Few boys came. They jumped into the lake and tried to save the children. But unfortunately, they could not save them. This natural conduct at this juncture is sufficient to grant the bail. That apart, no weapon is used. Nothing was hidden. Everything was made public immediately after the incident. In the circumstances, liberty of the applicants could not be curtailed. They must be released on bail forthwith. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) Applicants, Kavita Sarangdhar Pawase and Sachin Babaji Gade, be released on bail on furnishing PB. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) each with one solvent surety of the like amount in the above crime, on the conditions that;
 - (a) The applicants should not tamper with the prosecution witnesses and should attend the trial on each and every effective date.
 - (b) The applicants should attend the police station as and when called on written notice by the investigation officer till filing the charge sheet.

(5)

(c) Considering the facts and situation of the case, the police should guard the interest of the applicants, if affected by the villagers.

(iii) These observations are prima facie restricted to bail application only.

(iv) Criminal Application No.3820 of 2024 stands disposed of.

(S.G. MEHARE, J.)