



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1992 OF 2024

Anita w/o Anil Shinde,
Age 35 yrs. Occ. Household and Labour,
r/o Virbhanjan Kalika Mandir,
Near Marathi School, Bardipada,
Udhana, District Surat.

... Applicant

versus

The State of Maharashtra
Through P.I. Police Station,
Visarwadi, Taluka Navapur,
District Nandurbar.

... Respondent

**WITH
BAIL APPLICATION NO. 2172 OF 2024**

Amar Hari Pawar,
Age : 32 years, Occu: Labour,
R/o. Bardipara Khandbara,
Taluka Nawapur, District Nandurbar.

... Applicant

versus

The State of Maharashtra,
Through Police Inspector,
Visarwadi Police Station,
Taluka Nawapur, District Nandurbar.

... Respondent

.....

Mr. Rajendra G. Hande, Advocate for the Applicant in BA/1992/2024.
Ms. Karishma S. Sarin, Advocate for the Applicant in BA/2172/2024
Mr. V. M. Chate, APP for Respondent-State in both Applications.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 03.01.2025

Pronounced on : 07.01.2025

ORDER :

1. By invoking Section 439 of Cr.P.C., applicants have moved this Court for grant of regular bail in consequence to crime no.0241 of 2024 registered at Visarwadi Police Station, District Nandurbar for offence punishable under Sections 302, 201, 120-B r/w 34 of IPC i.e. after rejection of bail application by learned Additional Sessions Judge, Nandurbar.

Submissions in Application No. 1992 OF 2024

2. Learned counsel pointed out that, there is false implication. That, case is based on circumstantial evidence. There is no convincing evidence about applicant to be behind death of Rakesh Ramesh Samal. It is pointed out that in fact present applicant is mother-in-law of deceased Rakesh. He submitted that dead body was noticed in the vicinity of Zaripada Phata in abandoned condition. On receipt of information to that extent from one Raju Prabhakar Vasave, police party came and visited the spot and further claims to have come across the dead body stuffed in cloth and plastic gunny bag. On the basis of tattoo marks and writings, dead body was identified to be of Rakesh and on postmortem, it is claimed that death was due to head injury. Learned counsel pointed out that, here, there is not a single circumstance to connect present applicant, who is mother-in-law of

deceased. That, she is in fact resident of Bardipada Udhana, District Surat. Deceased was found dead in a taluka in Nandurbar district. That, there is no convincing evidence about present applicant to be in the company of deceased in proximity to his death. Learned counsel pointed out that on mere statement of wife of deceased, namely, Gauri, that her husband was taken by applicant on 08.06.2024 to Khandbara, applicant is falsely implicated. Learned counsel further pointed out that there is nothing to suggest existence of motive. Theory set up by prosecution that deceased was done to death getting annoyed by marriage of Gauri with deceased, has no foundation nor any material was gathered in such direction during entire investigation. He pointed out that, there is no recovery at the instance of applicant who is behind bars since June 2024. Learned counsel further pointed out that there is no reason for further detention as nothing is to be recovered or discovered from applicant, and hence, reliefs set up are urged for.

Submission in Application No. 2172 of 2024

3. Learned counsel for applicant pointed out that there is apparently false implication. There is no iota of evidence regarding any motive to do away with deceased. Applicant had no concern with deceased, who was son-in-law his sister. That, applicant resides at

Bardipada Khandbara, whereas deceased resided at Bamroli Udhana, District Surat. That, dead body of deceased was found in the vicinity of Zaripada Phata. There is no direct or circumstantial evidence against applicant. Applicant is behind bars since 12.06.2024. Nothing is to be recovered or discovered from him. Now, entire investigation is almost over and chargesheet is also filed. Sole witness examined by prosecution is wife of deceased but she has not named him. There is nothing to connect applicant with death of Rakesh. For all above reasons, learned counsel seeks grant of relief of bail.

Submissions on behalf of Respondent-State

4. Strongly opposing the above both applications, learned APP pointed out that, applicant Anita is mother-in-law of deceased Rakesh and applicant Amar is her brother. They were upset due to marriage of deceased with daughter of applicant Anita. As such, investigation revealed that in all five accused persons hatched a conspiracy to do away with deceased Rakesh. That, investigation revealed that accused Anita, who is mother-in-law of deceased, brought deceased from his house to the place of remaining accused at Bardipada and they all together committed murder of Rakesh. That, investigation revealed that all accused took deceased to the spot, killed him by stoning him and for causing disappearance of the evidence, body was wrapped

and stuffed in clothes and abandoned in no man's land. Thorough investigation and statement of wife of deceased revealed that applicants had brought deceased and killed him. According to learned APP, applicants were the only persons in the company of deceased since he was brought to Bardipada. Deceased was found to be murdered when he was taken from his home by present applicants. Lastly, learned APP submitted that offence is serious and there is every possibility of misuse of liberty.

5. After considering the above submissions and on going through the charge-sheet, it appears that on 11.06.2024, police constable of Visarwadi Police Station received phone call from one Raju Prabhakar Vasave about blood dripping from a gunny bag and foul smell emanating from the same, i.e. from pipes kept beneath a bridge. On visit, police and panchas came across dead body of a male. After noticing name tattooed over the hand, identity was traced and body was sent for postmortem. Opinion issued by autopsy surgeon is death due to intracranial bleeding due to head injury. Apparently, case seems to be based on circumstantial evidence. Statement of wife of deceased is recorded on 17.06.2024 wherein she reported that her mother, i.e. present applicant Anita, took her husband to Khandbara on 08.06.2024. However, dead body is spotted in morning of

11.06.2024 and that too, in the vicinity of Zaripada Phata. PM report *prima facie* does not show time since death even by approximation. There does not seem to be witness spotting present applicants in the company of deceased at Khandbara where deceased was allegedly taken on 08.06.2024. Co-accused (accused no.2) Chetan Ambadas Pawar appears to be beneficiary of bail by learned trial court. Therefore, when entire case is based on circumstantial evidence, and in view of above discussed material available upon investigation, and more particularly both applicants being behind bars since June 2024, and further, no convincing reason put forth by prosecution for further custody of the applicants, relief as prayed deserves to be granted. Hence, I proceed to pass the following order:

ORDER

- I. Both the applications are allowed.
- II. Applicants in both the applications, i.e. Anita w/o Anil Shinde and Amar Hari Pawar, be released on bail in connection with Crime No. 0241 of 2024 registered with Visarwadi Police Station, Taluka Navapur, District Nandurbar on executing Personal Bond of Rs.15,000/- each with one surety each in the like amount.
- III. The applicants shall not tamper prosecution evidence.

[ABHAY S. WAGHWASE, J.]