

IN THE COURT OF SESSIONS JUDGE,
BULDHANA.

(Presided over by Mr. S.C. Khati)

(1) Criminal Bail Application No.387/2022.

(CNR : MHBU010013362022)



1. **Mangala Dilip Nikalje,**
Aged 50 years, Occu. : Labour,
2. **Durga Sharad Salwe,**
Aged 25 years, Occu. : Labour,
3. **Sangita Ratan Nale,**
Aged 40 years, Occu. : Labour,
4. **Manisha Ankush Nikalje,**
Aged 23 years, Occu. : Labour,
All R/o Shelud, Post : Sawana,
Tq. Chikhli, Dist. Buldhana.
... Applicants/accused.

Vs.

State of Maharashtra,
Through : D.G.P., Buldhana,
for P.S.O., Chikhli,
Tq. Chikhli, Dist. Buldhana.
... Opponent/State.

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(2) Criminal Bail Application No.388/2022.

(CNR : MHBU010013372022)



1. **Sharad Bhaskar Salwe,**
Aged 33 years, Occu. : Labour,
2. **Sampat @ Swapnil Gajanan Kakfale,**
Aged 21 years, Occu. : Labour,

Both R/o Shelud, Post : Sawana,
Tq. Chikhli, Dist. Buldhana.
... Applicants/accused.

Vs.

State of Maharashtra,
Through : D.G.P., Buldhana,
for P.S.O., Chikhli,
Tq. Chikhli, Dist. Buldhana.
... Opponent/State.

Appearances in both the applications :

Shri A.R. Dinode, Adv. for applicants/accused,
Smt. Sonali Saoji (Deshpande), A.P.P. for
opponent/State,
Shri Vijaykumar Kasture, Advocate for
objector/informant.

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Common order below Exh.1.

(Dated : 11-11-2022)

1. After rejection of earlier bail application, the applicants have filed present applications, under Section 439 of the Code of Criminal Procedure, for grant of regular bail, in Crime No.824/2022 registered at Chikhli Police Station, for the offence punishable under Section 306 read with 34 of I.P.C.

2. Registration of the present crime is fall out of prior history between parties, wherein earlier the informant, who is the sister of deceased (Chandrakant @ Chandu), who was alleged to have committed an offence under Sections 354 & 323 of I.P.C. and under Section 8 of the Protection of Children from Sexual Offences Act committing an indecent sexual

assault on the victim 'Komal'; victim 'Komal's' mother Sharda Dipak Bhalerao, resident of Shelud, Tq. Chikhli, lodged report stating that when she had gone to agricultural work, victim Komal was in the house; who went to answer nature's call, at that moment of time, deceased (Chandrakant @ Chandu) had come running towards her and with indecent proposal outraged her modesty; therefore, offence was registered on the basis of above complaint against (Chandu) vide Crime No.822/2022 at Police Station, Chikhli; the said crime was registered on 01-10-2022 at night 12-34 hrs. Uma's mother Rukhminabai had earlier lodged a complaint wherein offence was registered vide Crime No.823/2022 with Chikhli Police Station, on 1st October, 2022 at 02-26 hrs. in the morning, wherein Rukhminabai had alleged that when she and her daughter (Uma) were in the house, at that time, Dadarao Salve, Gajanan Salve, Ankush Nikalje & Shubham Salve all of a sudden, came in front of their house and they pulled Uma with hair; as a result, her clothes got torn; they stated to her that her son Chandrakant @ Chandu had outraged the modesty of a girl of their village 'Komal', therefore, they were being assaulted, for which an offence was registered vide Crime No.824/2022, wherein the informant who is the sister of deceased (Chandrakant @ Chandu), who is alleged to have

committed suicide, due to the instigation, intimidation and abetment by the applicants and co-accused, Uma alleges that she resides alongwith her mother, brother and other family members; on the fateful day of September 30, 2022 at about 06-00 p.m. in the evening, when she alongwith her mother & brother (Chandu) were in the house, the persons residing in their lane namely Dadarao, Gajanan & Nagesh, came to their house and stated that Chandu had outraged the modesty of their girl and slapped Chandu & abused him; due to the said incident Chandu left the house; thereafter again on the same day at 08-00 p.m. in the night when Uma and her mother were in the house, at that time, Dadarao, Gajanan and other 8 to 10 people came there and inquired about Chandu and threatened that they would not leave him and, therefore, they man-handled her mother Rukhminabai; thereafter, all who had come, went in search of Chandu; lateron the informant was informed that her brother Chandu committed suicide by hanging from a tree; the informant along with others went to the spot to find that her brother was lying on the ground dead; on the basis of which offence came to registered against the applicants and other co-accused, as stated above.

3. Learned counsel for the applicants at

the outset, vehemently contends that vide Criminal Application (ABA) No. 731 of 2022, the Hon'ble High Court has released one of the co-accused namely Gajanan Salwe, whose name prominently appears in the F.I.R. and major role is attributed to him. Learned counsel contends that there was prior registration of offence against the deceased, for having outraged the modesty of a village girl Komal. Learned counsel contends that the applicants in Cri B.A. No.387/2022 are women & applicants in Cri. B.A. No.388/2022 are young men; and they have no role to play in the incident, as they never met Chandu nor there is any abetment or instigation at their instance to Chandu. Learned counsel contends that the present applicants are on the better footing than the one, to whom the Hon'ble High Court has granted anticipatory bail. Learned counsel contends that the applicants are seeking regular bail and the investigation to their extent is almost completed. Learned counsel contends that nothing has to be recovered or discovered at the instance of the applicants. Learned counsel contends that the accused deserve to be released on bail on the ground of parity and on merits too, due to change in circumstances.

4. Learned counsels for the opponent/

State filed say (Exh.5) and opposed the applications.

5. I have heard learned counsel for the applicants, learned counsels for the State and learned counsel for the objector/informant. Perused Police papers and objection (Exh.7) filed by the objector/informant.

Learned counsel for the applicants relied on following citations :

(i) **Chenna Boyanna Krishna Yadav Vs. The State of Maharashtra & One Anr.** in Criminal Application No. 4853 of 2004 decided on September 19, 2005 by Hon'ble Bombay high Court;

(ii) **Velladurai Vs. State represented by the Inspector of Police** in Criminal Appeal No.953 of 2021 decided on September 14, 2021 by Hon'ble Supreme Court;

(iii) **Monika D/o Sidharth Jadhav Vs. The State of Maharashtra**, 2022 BHCCO 678.

6. It is just to mention here that the Hon'ble High Court has released prime accused Gajanan Salwe on anticipatory bail. It is manifest from the record that the deceased was arraigned for having committed an offence under Section 354 of I.P.C. and under Section 8 of the POCSO Act. The allegation against the applicants revolves on the fact that earlier at 06-00 p.m., the informant & her mother were

assaulted alongwith the deceased; lateron in the second incident at 08-00 p.m. on the same day, again they were assaulted and abused. The fall out of constant nagging and threats at the instance of the applicants and co-accused, resulting into deceased committing suicide. In the present case, role of the applicants is to the extent that they had come to the house of deceased, when the deceased was not there. The informant Uma narrates specifically in the F.I.R. that the deceased was slapped by Dadarao, Gajanan & Nagesh. The allegations against the applicants make reference of their presence in the house of deceased when deceased was not present in the house. The other co-accused Gajanan, whose name is specifically mentioned of having being present in both the instances, has been released by the Hon'ble High Court, therefore, there would not be any justified ground to detain the applicants in jail when applicants' role is no less different from the released co-accused by the Hon'ble High Court. In such circumstances, when there is no further recovery to be effected from the applicants; taking into consideration the nature of allegations against the applicants, their detention in jail would not serve any fruitful purpose. Hence following order would subserve the ends of justice.

Order

1] Application (Exh.1) in Criminal Bail Application Nos.387 & 388 of 2022 is allowed.

2] Applicants in both the applications are released on regular bail in Crime No.824/2022 registered with Chikhli Police Station for the offence punishable under Section 306 read with 34 of I.P.C., on their executing P.B. and S.B. of Rs.50,000/- each with one or more sureties of the like amount, on conditions that -

i] They shall not tamper or influence the prosecution witnesses;

ii] They shall attend the concerned Police Station as and when required;

iii] They shall not commit similar type of offence.

3] Failure to abide by the terms and conditions, would entail for cancellation of their bail.

4] This order be kept in Cri. B.A. No.387/2022; and copy thereof be placed in Cri. B.A. No.388/2022.

Sd/-

(**S.C. Khati**)

Dated : 11-11-2022. Sessions Judge, Buldhana.

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Certificate

"I affirm that, the contents of this PDF file order are same word for word as per original order."

Name of Steno :- D.V. Gaiki, Stenographer Grade I,

Name of Court :- Court of Principal District & Sessions Judge, Buldhana.

Date of order :- 11-11-2022.

Order uploaded on :- 14-11-2022.

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