

ORDER BELOW EXH.04 IN CRIMINAL BAIL APPLICATION
NO.100/2024

State of Maharashtra Vs. Nitish Sonawane

1] The applicants/accused Nitish Sonawane moved this second bail application and has prayed for *regular bail* U/sec.483 of B.N.S.S., 2023 in connection with crime No.177/2024 under section 302, 307, 323, 504 of I.P.Code registered at Shivoor Police Station Taluka Vaijapur District Aurangabad.

2] The Investigating Officer and the Ld. APP opposed the application vide common say.

3] **Precise facts of the case are as under :-**

The FIR lodged by Sarla Nitish Sonawane, who scummed to death during treatment. She lodged report that, accused is her husband and has addiction of liquor. He used to beat her under influence of liquor, on the account that he does not like her and that he is willing to perform second marriage. On 15-05-2024 in the night at 01.00 A.M., while she was sleeping, the accused woke her up and beat her by saying that he does not like her. In the morning at 07.00 A.M., he took her to the field behind her house and ablaze her by pouring petrol on her person and left the spot. On hearing her shouting, her brother-in-laws namely Yogesh and Satish arrived to the spot and tried to save her by extinguishing the fire with the help of blanket. Her brother-in-laws took her to the Ghati hospital at Sambhaji Nagar. The FIR further shows that, during treatment she has lodged the report against the accused. On the basis of the report, an offences under Section 307, 323 and 504 of I.P.C. vide crime No. 177/2024 was registered against accused at Shivoor Police Station on 16.05.2024. On 01.06.2024 the informant died in Ghati hospital at Chhatrapati Sambhaji Nagar while she was under treatment.

Consequently, the investigating officer has added Section 302 of I.P.Code of the present crime. Hence, the FIR.

4] The learned advocate for the applicant/accused submits that the applicant / accused is arrested on 16.05.2024, remanded in MCR on 18.05.2024 and since then he is in jail. There is no progress in trial, speedy trial is fundamental right of accused which is violated. The deceased was suffering from mental ailment. The deceased herself committed suicide by setting herself on fire. No purpose will be served by keeping the accused behind the bars. There are no criminal antecedents. There is delay in recording of statement of witness it shows that, concocted story is made by the investigation officer. With this, he prayed to allow the application.

5] Per contra, the learned APP submits that, the offence is serious in nature. The accused has committed the murder of his wife. The dying declaration of deceased is sufficient to show act of accused. Even, statement of sister of deceased corroborate with dying declaration. There is sufficient evidence against the accused. The material witnesses are yet to be examined. With this, he prayed to reject the application.

6] Having heard submission canvassed by respective counsels and considering the facts of the case and perusal of the charge-sheet more particularly the post-mortem report, opinion as to the cause of death "Septicemia due to burns". The FIR prima-facie show that the deceased was ablazed. The statement of witnesses shows that, deceased was subjected harassment at the hands of the accused. The accused is booked under Section 302, 307, 323, 504 of I.P.C. The statement of sister of deceased corroborate F.I.R. of deceased.

7] Considering the cause of death and the spot of incident as well as the way it is attempted, prima-facie there is sufficient material to hold that, the accused is involved in commission of serious nature of offence.

8] The case is fixed for framing charge since 21.10.2024 and it is adjourn for hearing before charge. It appears that, counsel of accused has sought adjournment by filing application vide at **Exh.06**, that he desires to file discharge application and hence the charge cannot be framed even today. It appears from the record that, the court has not framed charge and kept for hearing before the charge, as the accused desires to file the application but has actually not filed the application and got adjourn the matter on this ground.

9] Admittedly, the record demonstrates that, the case is for hearing before charge and when this court today directed to frame charge, adjournment is sought. Hence, the delay is not cause on the part of prosecution or court.

10] Here it is necessary to mention that, present case is of the Court of Hon'ble District Judge-1 & Additional Sessions Judge (Shri R.D. Gadwe), Vaijapur. The Hon'ble District Judge-1 & Additional Sessions Judge (Shri R.D. Gadwe), Vaijapur is transferred on 15.03.2025. Presently this Court is incharge of the said Court since 01.04.2025. Today, the Court has directed to counsel of accused that, the court is going to frame the charge on that, the adjournment application is moved by the learned counsel of accused. Thus, accused cannot claim right of bail on the ground of delay in trial.

11] Considering the cause of death, dying declaration prima-facie there is sufficient material to hold that the accused is involved in commission of serious nature of offence.

12] Under such circumstances considering the gravity of offence and severity of punishment, the accused is not entitle for bail. Hence, the application is liable to be rejected. Accordingly, I proceed to pass following order:-

ORDER

Application **Exh.04** is rejected.

Date : 16.05.2025.

(Smt. S. K. Upadhyay)
I/C. Additional Sessions Judge,
Vaijapur, District Aurangabad.