

Bail Application in Special Atrocity Case No. 26/2022

State of Maharashtra

Vs.

Mira Dattatray Kavhale

(CNR NO. MHBUE20-000317-2022)

ORDER BELOW EXH. 22

(Passed on this 28th Day of June, 2023)

01] The applicant has filed second bail application in crime No. 60/2022 registered with Police Station, Sakharkherda, Tq. Sindkhed Raja, Dist. Buldhana, for the offences punishable under Sections 302, 120(B) of the Indian Penal Code, 1860 and under Section 3(2)(V) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989

02] Read the application and say given thereon by the prosecution. Perused charge-sheet. I have heard learned Advocate Shri. Nirmal Sawale for the applicant, learned A.P.P. Shri. G. G. Pokale for the state and informant in person at considerable length.

03] According to the case of prosecution Smt. Tulsabai Kavhale lodged report at Police Station, Sakharkherda stating therein that her son Dattatray Kavhale married with the applicant. On 15.03.2022 she had been to the house of applicant and that time she saw one another person running from the house of her son namely, Dattatray. Informant found that her son Dattatray was sleeping on the cot and his legs were tied with handkerchief. At that time applicant/ accused asked her that her husband is sleeping and

don't wake-up him. Therefore, informant returned to her house and after two hours she received call of the applicant that her son Dattatray is not making movement. Therefore, informant and her younger son - Ashok went to the house of Dattatray and found marks of strangulation on the throat of Dattatray. Dattatray was laying on the cot, who later-on declared as dead in the hospital.

04] In support of the application, the learned counsel relying on the unreported Judgment of Hon'ble Bombay High Court, Bench at Nagpur **in Criminal Application (BA) No. 135/2023**. Relying on this Judgment, the learned counsel submitted that the applicant is only bread earning member of her family. She is behind the bar for the period of more than of one year. She has no criminal antecedent. Trial is not likely to commence and conclude in the near future. She is innocent until proven guilty.

05] The learned counsel further submitted that fear and interest of the prosecution witnesses can be protected by putting the applicant on stringent condition. He further submitted that charge-sheet has been filed and there is change in the circumstances. Applicant is ready to abide herself with any condition of bail order.

06] On the contrary learned A.P.P. strongly opposed bail application relying on the say of Investigating Officer. He submitted that on the basis of extra judicial confession, statement of witnesses, seizure form, inquest panchanama and postmortem

report, prima-facie case is made out against the applicant, who committed murder of her husband. He further submitted that the offence of murder is serious in nature and punishable with death or life imprisonment. The informant and the applicant are close relatives, therefore, applicant can easily tamper to the informant and evidence of prosecution. Informant in person submitted that the applicant has brutally murdered her son - Dattatray, therefore, she prayed to reject the bail application.

07] Having considered rival submission of either side, report and statement of witnesses it appears that there was illicit relation between applicant and other accused Aejaaz Khan. On that count husband of the applicant started consuming liquor and quarreling with the applicant. In order to remove the obstacle, the applicant and other accused Aejaaz Khan made conspiracy and committed murder of Dattatray Kavhale by strangulating his neck.

08] Report and statement of witnesses prima-facie supported by the inquest panchanama, postmortem report and seizure made under Section 27 of the Indian Evidence Act. Inquest panchanama and postmortem report of Dattatray Kavhale goes to show that Dattatray was died on account of strangulation of his neck. Thus, prima-facie case of murder is made out against the applicant. Not only this, Investigating Agency has seized the article by which the applicant has committed murder of her husband.

09] On the basis of report, statement of witnesses, inquest

panchanama, postmortem report and seizure forms prima-facie it appears that the accused / applicant has played vital role to commit murder of her husband.

10] Admittedly, informant and other witnesses are close relatives of the applicant and therefore, applicant can easily tamper to the prosecution witnesses. The offences of murder is punishable with death or life imprisonment and serious in nature. Therefore, in my considered opinion applicant is not entitled to be released on bail. Hence, I proceed to pass following order.

- O R D E R -

Application is Rejected.

(Dictated and pronounced in open court)

Date: 28.06.2023
Place: Mehkar

(Sagar K. Mungilwar)
Special Judge
Mehkar, Dist. Buldana

C E R T I F I C A T E

I affirm that the contents of this PDF file Order / Judgment are correct word to word as per the original.

Name of Court : Shri. Sagar K. Mungilwar
Special Judge, Mehkar, Dist. Buldana.

Name of Steno : Shaikh Imran Abdul Rauf,
Stenographer, Grade-2, Mehkar.

Date : 28.06.2023