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Bail Application in Special Atrocity Case No. 26/2022

State of Maharashtra

Vs.

Mira Dattatray Kavhale

(CNR NO. MHBU20-000317-2022)

ORDER BELOW EXH. 48

(Passed on this 03rd Day of October, 2025)

01] Applicant - **Mira Dattatray Kavhale** has filed 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 Mr. Bhalerao for the applicant, learned A.P.P. Sau. R. A. Als for the State at considerable length. Informant had objected previous bail application of applicant Mira Kavhale on the ground that there is danger to her life at the hands of accused person. The Court has appointed amicus curiae, who gave the report that informant is not residing in the village, therefore, previous say of the informant is to be considered for deciding present bail application.

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 accused Mira.

On 15.03.2022 she had been to the house of accused Mira and that time she saw one another person running from the house of her son Dattatray. Informant found that her son Dattatray was sleeping on the cot and his legs were tied with handkerchief. At that time accused Mira 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 phone call of accused Mira, who informed her that her son Dattatray is not making any movement.

04] It is contended that 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. Thereafter, informant lodged report at Police Station, Sakharkherda.

05] The learned counsel for the applicant vehemently argued that first bail application of the applicant was rejected prior to filing of the charge-sheet. Now investigation is completed and charge-sheet has been filed in the Court. Applicant is languishing in jail from dated 16.03.2022 and there is no significant progress in the proceeding on behalf of the prosecution. Therefore, there is change in the circumstances for the present bail application.

06] The learned counsel further submitted that this case is based upon circumstantial evidence and the link for establishing the guilt of applicant / accused is missing. He further submitted that prior to the incident accused No. 1 and her husband were residing and settled at Ahemadnagar. They came to village Goregaon for

limited period. There was no dispute between the applicant and deceased Dattatray. There is no sufficient evidence to show that there was illicit relation between accused Nos. 1 and 2.

07] The learned counsel pointing out report submitted that accused Mira called informant on phone and informed her that deceased is not making any movement. He further submitted that informant is mother of deceased, who saw the legs of deceased tied with handkerchief, but she left the house of deceased without making any inquiry. These facts creates doubt about the story of prosecution. He further submitted that deceased was habitual drunker and therefore, possibility of suicide cannot be ruled out. Pointing out postmortem report and column No. 20 therein it is submitted that organs of deceased Dattatray mentioned in column No. 20 are intact. He further submitted that on the basis of postmortem report it cannot be said that the accused person throttled Dattatray till his death and therefore, postmortem report is doubtful and not acceptable. No prima-facie homicidal death is ruled out. He further submitted that the informant and her younger son took Dattatray in unconscious condition and that time Dattatray was not dead.

08] The learned counsel further submitted that there is extra judicial confession, on which basis the accused/applicant is implicated in this case. Said evidence is weak piece of evidence and cannot be relied on. He further submitted that statement of witnesses are recorded at very belated stage. There is contradiction

and inconsistency in the report of informant and statement of witnesses. The learned counsel concluded the argument saying that one accused is released on bail by the Hon'ble Bombay High Court, Bench at Nagpur and therefore, accused Mira is entitled to be released on the ground of parity. Since, there is no possibility of progress in the trial by the side of prosecution and therefore, applicant may be released on bail on imposing stringent condition.

09] On the contrary learned A.P.P. strongly opposed bail application relying on the say of Investigating Officer. She 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 Dattatray. She further submitted that the offence of murder is serious in nature and punishable with death or life imprisonment. The informant and the applicant are residing in the same village, therefore, applicant can easily tamper to the informant and evidence of prosecution. Learned A.P.P. prayed to reject the bail application.

10] Having considered rival submission of either side, report and statement of witnesses it appears that there was illicit relation between accused No. 2 and accused Mira. On that count husband of the applicant started consuming liquor and quarreling with accused Mira. In order to remove the obstacle, the applicant made conspiracy and committed murder of Dattatray Kavhale by strangulating his neck. It is relevant to note here that report and statement of material

witnesses goes to show that there was illicit relation between accused Nos. 1 and 2 and on the day of incident informant Tulsabai found accused Aejaaz Khan running from the house of deceased Dattatray. This fact prima-facie indicates that there was reason for the applicant to commit the murder of Dattatray. It is also relevant to note here that as per report and FIR since beginning accused Mira was present with her husband, therefore, there is strong evidence to connect accused Mira with the commission of an offence of murder.

11] 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 accused has committed murder of Dattatray. It is true that extra judicial confession is weak piece of evidence and requires appreciation with great deal of care and caution. Admittedly, as per Section 30 of the Indian Evidence Act, confession of co-accused could only be considered, but could not be relied on as substantive evidence. In the present case as per report and statement accused No. 2 was running from the house of deceased Dattatray just after the incident and this fact supported to the story of prosecution. As such as per postmortem report, column No. 17, there are abrasion and ligature mark on the neck of deceased Dattatray, therefore,

prima-facie case is made out against the accused Mira.

12] 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 Dattatray.

13] Admittedly, informant, witnesses and applicant hails from same village and therefore, applicant can easily tamper to the prosecution witnesses. The offence of murder is punishable with death or life imprisonment and serious in nature. Consequently, the applicant may flee from justice and will not be available during trial. Hence, in my considered opinion applicant is not entitled to be released on bail.

With this, I proceed to pass following order.

- O R D E R -

Application (Exh. 48) is Rejected.

(Dictated and pronounced in open court)

Date: 03.10.2025
Place: Mehkar

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

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. Buldhana.

Name of Steno : Shaikh Imran Abdul Rauf,
Stenographer, Grade-1, Mehkar.

Date : 03.10.2025