

**Order passed below Exh.3 in Session Case No.17/2022**

1. This is an application filed by accused namely Surekha Naresh Kumar for seeking regular bail under Sec. 439 of Cr.P.C. on the ground of changing circumstances that her first bail application before filing chargesheet vide C.B.A no. 1100/2021 was rejected and at present chargesheet is filed against her.
2. Fact of prosecution case is that, on 16.10.2021 at about 3.00 a.m. accused committed murder of her husband as he used to take suspect on her character and used to give threat to kill her and her issues. It is further alleged that, by using knife accused assaulted over the neck of deceased and also try to destroy evidence against her. According to prosecution offence punishable U/s. 302, 201 of I.P.C. committed by accused.
3. On the basis of report of P.S.I. Sonawane crime in question was registered against accused, she came to be arrested on 16.10.2021. At present she is in magistrate custody. Her first bail application bearing no. 1100/2021 rejected by this court. At present chargesheet is filed against her. Circumstances are change than present at the relevant time of first application. Hence, this application on the ground of changing circumstances.
4. It is contention of accused that, no direct or indirect concern of her with alleged crime, she falsely implicated. Since from 16.10.2021 she is behind bar. Running age of her daughter is 7 years. Running age of her son is 2 years, he is sucking child. No one available to take care of her minor child as she is behind bar.

Her daughter is school going, she is resides at caption address. Investigation of crime is already over, even chargesheet also filed against her. Her detention behind bar is unwarranted. By contending so she requested for allowing application question.

5. Prosecution resisted vide said Exh. 6, it is contention of prosecution that, deceased was husband of accused, murder of him committed by accused by using knife. Native of accused is from Lonawala, if relief in question allowed in favor of accused then she will abscond, she will tempor the evidence of prosecution. By contending so, prosecution rejected for its rejection.

6. Read application and say, peru the investigation papers attached with chargesheet. Heard Advocate Shri. Sayyad for accused and learned A.P.P. Kalal for state at length.

7. During the course of argument advocate for accused has submitted that, since from last five moths accused is behind bar. Her minor son is also with her in jail, her daughter is minor, she is alone at house. No one available to take care of her minor daughter. Investigation of crime is already over. Further detention of accused behind bar is unwarranted. By saying so, he requested for allowing application question.

8. Per-contra A.P.P. Kalal said that, offence is in serious nature. There is direct involvement of accused in commission of crime. If she enlarge on bail then she will abscond, trial will hamper. By saying so he requested for its rejection.

9. Considering the facts of prosecution case and rival

argument advanced on behalf of both, it is matter of record that, first bail application of accused before filing of the chargesheet vide C.B.A. No. 1100/2021 was rejected by this court. At present chargesheet is filed against accused. That facts suggest that, investigation of crime in all respects completed by investigating officer. On the basis of it, it is inferable that for the purpose of investigation detention of applicant behind bar does not seems to be imperative.

10. During the course of argument ad. for accused try to convince that, accused possess minor son and daughter on perusal of documents attached list Exh. 5 birth certificate of Vidya is place on record in which status of accused is reported as a mother of Vidya. Birth date of Vidya is reported 30.07.2014. As per Bona-fied certificate issued by Z.P. School Kudashi that Vidya is reported in first standard. On perusal of papers attached with chargesheet it is revealed that, on 17.10.2021 learned J.M.F.C. Sakri directed to P.S.O. Pimpalner to take help of child welfare committee in order to make arrangement of son and daughter of accused. On the basis of it, it is inferable that except accused no one available to take proper care of minor son and daughter of accused. On that ground, I found substance in the argument advanced on behalf of accused.

11. As discuss above detention of accused behind bar does not seems to be warranted for the purpose of investigation. Investigation of crime is already over, even chargesheet is also filed against accused. There appears changing circumstances at present than of the circumstances present while dealing with first bail application of accused. Though, charges level against accused are

in serious nature but trial will take its own time. As accused is behind bar, no one available to take care of her minor son and daughter, if said fact, remain in force continue in nature then certainly future of son and daughter of accused will become darkish. Accused is not possess any history of previous criminal. Since, from exceeding 5 months accused is behind bar. Whatever ground putforth by prosecution for refusing relief appears to be vague and general in nature. On the basis of ground putforth by prosecution further detention of accused behind bar seems to be unwarranted. By clubbing all above said fact, case is made out in fever of accused for seeking regular bail. Hence, this court inclined to allow application in question. As regard apprehension putforth by learned A.P.P. concern, that can be care by imposing certain conditions on applicant while allowing application in question in the result I proceed to pass following order.

**: ORDER :**

1. Application Exh. 3 is hereby allowed.
2. Accused namely Surekha Naresh Kumar shall be released on furnishing two solvent surety of Rs. 25,000/- each and personal bond of like amount. Concern with C.R. No. 248/2021 registered with Pimpalner Police Station for the offence punishable under sec. 302,201 of I.P.C. subject to following further conditions.
  - I) Accused shall not tamper the evidence of prosecution and its witnesses in any manner.

- II) Accused shall remain present on each and every schedule date before the court concern with Session Case No. 17/2022 without fail and excuse.
- III) Accused shall give her attendance at Pimpalner Police Station once in a three month with effect from 01.04.2022 till conclusion of trial as per provision laid down in Para No.12(5) of the Criminal Manual.
3. Accused is hereby directed to maintain attendance diary concern with her attendance at Pimpalner Police Station in order to compliance order clause 2(III) for the purpose of taking acknowledgment of in-charge of Pimpalner Police Station and produce the same before the court as and when directed to do so.
4. Incharge of Pimpalner Police Station is hereby directed to issue acknowledgment on diary maintain by accused about her attendance at police station by making seal and signature as directed in order clause 2(III).
5. Inform to Pimpalner Police station accordingly.

Date :- 25.03.2022

M.G. Chavan  
(District Judge -5, Dhule )

