

MHJN010011192023



IN THE COURT OF ADDITIONAL SESSIONS JUDGE, JALNA

**Sessions Case No. 114/2023
(CNR No.MHJN010011192023)**

1. **Mr. Santosh Bhaurao Sarode**
Age:45 years, Occ: Labour,
R/o Bhatkheda Shivar,Pimpalgoan,
Tq. and Dist. Jalna. **Accused No.1**

2. **Mr. Namdeo Bhaurao Sarode**
Age:40 years, Occ: Labour,
R/o Bhatkheda Shivar,Pimpalgoan,
Tq. and Dist. Jalna. **Accused No.2**

V/s.

The State of Maharashtra
(Police Station, Chandanzira) **.....Respondent**

Mr. M.B. Lingayt, Advocate for the applicant,
Mr. B.V. Ingle, P.P. for the State.

**Coram: Mr. S. R. Tamboli, The Addl. Sessions
Judge, Jalna.**

Date: 29th day of August, 2023.

:: ORDER BELOW EXH.15. ::

In the instant application, accused no.1 Mr. Santosh Bhaurao Sarode and accused no.2 Mr. Namdeo Bhaurao Sarode prayed for bail as per Sec.439 of Cr.P.C. who are in judicial custody of Chandanzira Police Station in C.R. No.465/2022 which is registered for the offence punishable under Sections 302 and 201 read with 34 of the Indian Penal Code.

2] In short, the case of the prosecution is as under-

Jitendra Tagwale, the first informant, was serving as Head Constable in Chandanzira police station Jalna. On 14/12/2022 he was on patrolling duty alongwith other police staff. At that time, he received information about completing of funeral ceremony by accused Santosh Sarode in his fields. He performed funeral ceremony of his daughter Surekha in his field without giving intimation to police. Hence, the first informant went alongwith staff in the field of accused Santosh Sarode. On inquiry it was revealed that prior to 2 to 3 days of death of Surekha who was 17 years age had left the house. On 13/12/2022, she returned. Accused felt insulted on account of her departure from the house without giving intimation. Hence, she was hanged to the tree. After commission of murder, her funeral ceremony was completed. On the basis of said information, he filed a complaint. After registration of FIR the criminal law was set in motion. I. O. rushed on the spot and prepared panchanama of the spot. He collected brunt pieces of the bone, teeth of the deceased as well as ash and plain soil. He also seized clothes of the accused Santosh Sarode. He also recorded statements of the witnesses. The statement of witnesses show that deceased Surekha had left the house of the accused Santosh Sarode alongwith Rameshwar. After two days, she returned to the village. A meeting was called for conducting marriage of deceased Surekha with Rameshwar. In said meeting, accused insisted for transferring the half acre land in the name of Surekha, which proposal was not accepted. Thereafter, accused returned to his house. Accused Namdeo and Santosh bolted door from inside. Accused Santosh, Namdeo and Surekha were in the room. After some time, they opened the door and started to cry. They told that Surekha was no more. On inquiry, accused disclosed

that Surekha was not ready to hear them and hence, they committed her murder. In order to show that Surekha committed suicide, her body was hanged to the tree and after sometime, her funeral ceremony was completed.

3] In the backdrop of these facts Mr. M.B. Lingayat learned counsel for the accused submitted that in the present case the DNA report is received. Said DNA report does not support the prosecution case. Since decision of earlier bail application, circumstances have been changed. Hence, he prayed that accused be released on bail.

4] Per contra, Mr. B.V. Ingle learned APP for the State submitted that predecessor in title of this Court rejected the bail application of the accused by passing order below Exh.3. The DNA certificate is an additional evidence. The accused were in the last company of Surekha. Out of anger, they murdered her and made a farce of suicide. Since decision of earlier bail application, circumstances have not been changed. Hence, he prayed to reject the application.

5] It is important to note that accused prayed for regular bail as per application (Exh.3). On 15/04/2023, said application is rejected on merit. No doubt, after decision of said application, this court received report of DNA. It is not useful to the prosecution. However, the court cannot overlook the other evidence against the accused. The order passed Exh. below 3 categorically shows that there is prima facie case for the offences punishable under sections 302, 201 of IPC against the accused.

6] In the context of DNA evidence, it will be fruitful to refer the decision of the Hon'ble Apex Court in the case of Pattu Rajan vs.

The State of Tamil Nadu., MANU/SC/0439/ 2019(FB), wherein the Hon'ble Supreme Court observed as under-

33. Like all other opinion evidence, the probative value accorded to DNA evidence also varies from case to case, depending on facts and circumstances and the weight accorded to other evidence on record, whether contrary or corroborative. This is all the more important to remember, given that even though the accuracy of DNA evidence may be increasing with the advancement of science and technology with every passing day, thereby making it more and more reliable, we have not yet reached a juncture where it may be said to be infallible. Thus, it cannot be said that the absence of DNA evidence would lead to an adverse inference against a party, especially in the presence of other cogent and reliable evidence on record in favour of such party.

7] The ratio laid down in the aforesaid case clearly shows that the probative value of DNA report varies from case to case. It is depending upon facts circumstances of the case. Therefore, much value cannot be given to the DNA report. There is a strong prima facie evidence for the offence punishable under section 302 and 201 of the IPC against the accused. Long detention in jail is no ground to release the accused on bail. The detail findings has been recorded by my predecessor in title while passing order below Exh.3. Since decision of the said bail application, the circumstances have not been changed. In the absence of changed circumstances, the accused are not entitled for the bail. This court cannot review its own order. No case made out by the accused for grant of bail. In case of co-operation by the accused, hearing of the case can be expedited. In the result I pass following order.

ORDER

Application is dismissed.

Date- 29/08/2023
Jalna.

(S.R. Tamboli)
Addl. Sessions Judge,
Jalna.

Dictated on	29/08/2023
Typed on	29/08/2023
Checked on	29/08/2023
Signed on	29/08/2023

Certificate

I affirm that, the content of this PDF file are word to word as per the original order.

Name of the Stenographer : D.M. Gaikwad,

Name of the Court : Addl. Sessions Judge, Jalna.

Date : 30/08/2023

Sd/-
[D.M.Gaikwad]
Steno