


MHKO060005942022 	ORDER PASSED BELOW EXH.13 IN Sessions Case No.69/2022
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This is an application filed by accused for bail under section 439 of Criminal Procedure Code in Crime No.162/2022 (S.C.No.69/2022) under section 302,392, 394,397,323 read with 34 of the Indian Penal Code, 1860, registered at police station, Shirol.

2. Facts in brief are as under :-

Complainant Arihant Chougule resides at Hupari Tal. Hatkanagale. Complainant's maternal uncle Prakash Kakade runs jewelry shop at Hupari and complainant does the work with him. Complainant's grand mother Champabai and grand father Bhupal Kakade reside at Kakade Mala, near Nandiwale colony, Chinchwad Tal.Shirol. Bhupal has undergone leg operation. Therefore, he could not walk and his vision is also not clear because of age. On 30-08-2022, at about 5.30 to 6.00 pm, complainant and his mother had been to see Champabai and Bhupal at Chinchwad. Complainant and his mother returned at Haroli Tal.Shirol around 7.15 pm. At about 9.15 pm, complainant received phone call that her grand mother is unconscious and her grand father is shouting. Therefore, complainant and his mother went at Chinchwad. Complainant saw that someone has tied the neck of Champabai by her sari. His grand father was shouting. Complainant came to know that after dinner, Champabai and Bhupal were watching TV. Someone came and asked for water. Champabai gave him water but that person snatched Mangalsutra, ear tops of Champabai and kicked on her chest. Thereafter, complainant took Champabai at Datta Sugar factory hospital, Shirol.

Their doctor referred Champabai at civil hospital, Sangli. But she was declared as dead. It is alleged that unknown person robbed gold mangalsutra, ear tops of Champabai and committed her murder.

3] On the report crime was registered and PI S.D.Borigidde took up the same for investigation. He visited the spot and recorded spot panchanama. Present applicant/accused was arrested. While he was in custody, he gave statement and as per his statement police seized mangalsutra which he had concealed under the earth in the field. He also produced ear tops which were given to one Jeweler. It was also resulted that accused No.2 had participated with accused No.1. Test identification parade was conducted. Statements of witnesses were recorded and after completion of investigation, chargesheet came to be filed against the accused.

4] Mr. S.S.Mhalungekar, advocate for the accused has submitted that false crime is registered against the accused. Accused has no concern with the crime. There are no allegation against the accused in the complaint. Earlier this accused had filed application for bail. However, this court held that while considering the bail application, it is not expected to have a mini trial. But from the scrutiny of chargesheet, it appears that there is absolutely no evidence against the accused. Accused has no concern with death of Champabai. Test identification parade is not conducted as per the settled law. There are contradictions in the statements of complainant. He has further submitted that the complaint is filed on hearsay evidence. After demise of Champabai, civil litigation was started between her relatives. False recovery is shown from the accused. He has further submitted that co-accused is released on bail. Therefore, present applicant is entitled for bail on the principle of parity. Accused is only

bread earner of his family. He undertakes to abide by the conditions imposed by the court. He prayed to release accused on bail.

5] The learned APP filed say at Exh.14. Mr. U.M.Kulkarni, learned APP for the state has submitted that accused has committed serious crime. There is recovery of gold mangalsutra and ear tops at the instance of present accused. According to him, if the accused is released on bail, then he will pressurize the witnesses. He prayed to reject the application.

6] This is second bail application of the accused. It is true that successive bail applications are maintainable. However, there must be change in circumstances. I have perused the chargesheet. Complainant is the grand son of deceased Champabai. On the day of incident, he came to meet her with his mother at Chinchwad. Then he returned to his village Haloli. He received phone call and came again at Chinchwad. It is alleged that ornaments i.e. gold mangalsutra and ear tops of his grand mother were snatched. Initially, complaint is lodged against unknown person.

7] During investigation, police arrested the present accused. While he was in police custody, his statement under section 27 of Indian Evidence Act was recorded and police discovered the gold mangalsutra and ear tops. Thus, there is incriminating evidence against the accused.

8] It is true that co-accused is released on bail. However, Bhupal Kakade has stated to complainant that one person had come in the house and asked for water. Further there is no recovery of any articles from the co-accused Bajrang @ Bajya Vasant Nandiwale. Therefore,

principle of parity did not apply to present case.

9] Considering the case of present accused, gold ornaments of Champabai was recovered at the instance of present accused. The offence is serious. Therefore, considering the facts and circumstances of the case, I find that accused is not entitled for bail. Hence, following order;

ORDER

Application is rejected.

Jaysingpur.
Dt.:02-02-2024.

(**G.B. Gurao**)
Addl. Sessions Judge, Jaysingpur.