

MHKO080003092024



Sessions Case No.14/2024

Order below Exh. 12

1. This is first bail application filed by accused Yogesh Pandurang Patil for regular bail under Section 483 of Bhartiya Nagarik Suraksha Sanhita, 2023 for releasing him on bail. The accused is in judicial custody in connection with CR No.270/2023 registered with Ajara Police Station for the offence punishable under Sections 302, 354-A, 201 of the Indian Penal Code, 1860.

2. The prosecution case in nutshell is as under -

(2.1) The first informant Kumar Dattatray Dhere, PSI, Ajara Police Station lodged FIR on 29/12/2023 alleging that, A.D. No.53/2023 was registered as per Section 174 of the Code of Criminal Procedure, 1973 on 28/12/2023 with Ajara Police Station, in connection with unnatural death of deceased Aashatai Maruti Khule, Age 43, R/o. Bhadawan, Tal. Ajara, Dist. Kolhapur. Her dead body was found in half burned condition in agricultural land Gat No.1886 situated at Bhadawan. It is a sugarcane field. The matter was reported by her cousin brother Kashinath Narayan Khule.

(2.2) Accordingly, the inquiry into the death was carried out and it is disclosed that, as per C.C.T.V. footage collected from the spot that, the deceased was followed by accused towards the spot of incident at about 2.00 p.m., where the dead body was located on 28/12/2023. Therefore, on inquiry it is disclosed that, accused, who followed her and demanded sexual intercourse with her to which she protested, a scuffle took place. The accused, overpowered the deceased, strangulated her neck by the sari. Thus, killed her on the spot.

(2.3) Subsequently, the accused set on fire the said agricultural field so as to destroy the evidence of the crime. The inquest panchanama, postmortem report, spot panchanama, seizure panchanama were prepared. The accused was arrested. Necessary samples were taken. Photographs were snapped and after collecting sufficient evidence against the accused the police have filed charge-sheet in the Court.

(2.4) In due course of time the case is committed to this Court and the accused has moved the present bail application on the ground that, there is no eye witness to the incident. The so called incident has so many discrepancies. The antecedents of accused are clean. He is falsely implicated in the case. He is in Jail since his arrest from 30/12/2023 till this date. More than 13 moths have been elapsed. He is ready to abide conditions that may be laid down by this Court and therefore, prayed for bail.

3. The bail application is strongly opposed by Ld. APP, Shri. S.A. Teli by filing say on the leaf-over of the bail application stating that, there is possibility of tampering prosecution witness and the evidence by the accused and therefore, strongly opposed the bail application.

4. Perused the record. Head both parties. The Ld. Counsel, Shri. Matale for the accused has pointed out that, except the C.C.T.V. footage and the statement of Dattatray Balaku Desai stating that, on 28/12/2023 the accused had been for cultivating in his field with the help of tractor at 2.00 p.m. There is no evidence to connect the accused to the present crime, rather he pointed out statements of various witnesses stating that, before and after the incident the accused was very well present in the village and was seen by these witnesses and was doing his normal daily routine in the village. He was one of the person, who tried to extinguish the fire in the field and therefore, considering this evidence, he prayed to release the accused on bail on the conditions that may deemed fit by this Court.

5. On the other hand, the Ld. APP, Shri. Teli submitted that, though the case is based on circumstantial evidence, but the statement of witnesses and the C.C.T.V. footage itself connecting the accused with the present crime. There is strong suspicion against the accused, which pointing out the guilt of the accused. He also submitted during his course of arguments that, the time gap in between the last seen of the accused in C.C.T.V. camera and the death

of the deceased is so narrow that the involvement of any other third person is completely ruled out. Therefore, he submitted that, as the accused is local resident and the witnesses are from the same village, there is every chance that accused may tamper with prosecution witnesses, which will seriously affect the merits of the case, therefore, he prayed to reject the bail application.

6. I have carefully gone through the entire charge-sheet placed before me. The case committed to this Court. The charge is framed at Exh.2 on 18/07/2024. The C.A. report is awaiting.

7. So far as merit of the case is concerned, except the C.C.T.V. footage and the statement of witness Dattatray Desai, there is nothing on record to connect the accused with the present crime, though the statements of other witnesses are recorded, which are stating that they have seen the accused near the spot of incident, but as the accused is a local resident, it is but natural that being a tractor driver he may pass through the said road in which his image was captured by the C.C.T.V. footage. Apart from the above evidence, the accused was very well present in the village itself and had participated in extinguishing the fire along with other witnesses. Admittedly, there is variation about time when the deceased has left her house in the evidence of the prosecution.

8. In the Vardi filed by the cousin brother of the deceased no needle of suspicion was pointed towards the accused. It is admitted fact that, the case is based on circumstantial evidence. I

have carefully gone through the postmortem report, wherein abrasions are seen on the neck of the deceased, however, the I.O. has not taken nail clippings of the accused immediately after his arrest so as to collect the possibility of blood of the deceased on the nails of the accused, which may connect him with the crime. Though blood samples are taken, but the same will be considered at the time of trial. In view of above, the case for granting bail is made out. Hence, I am inclined to allow the bail application on certain conditions. Hence, following order is passed -

Order

- 1) The bail application is allowed.
- 2) The accused Yogesh Pandurang Patil shall be released on bail on execution of P.B. and S.B. of Rs.50,000/- each in connection with C.R. No.270/2023 registered with Ajara Police Station for the offence punishable under Sections 302, 354-A, 201 of the Indian Penal Code, 1860.
- 3) He shall not tamper the prosecution evidence.
- 4) He shall not threaten the prosecution witnesses.
- 5) He shall attend the trial regularly.
- 6) Copy of this order be sent to the Superintendent of concerned Jail Authority, Kolhapur, by email for necessary information.

Date :20/03/2025.

Sd/-
(M.A. Shinde)
Additional Sessions Judge, Gadhinglaj