

IN THE COURT OF ADDL.SESIONS JUDGE AT BHOKAR
DISTRICT NANDED

MHND110001862024



Sessions Case No. 21/2024
The State Versus Santosh +1
Crime No. 40/2024, P.S.Umri
Offence Pun.u/s 306, 323, 504 rw.S 34 of
IPC

ORDER BELOW EXH.02

01] This is an application under-section 439 of Code of Criminal Procedure for grant of regular bail by accused namely Santosh Nagorao Haibatkar and Sachin Nagorao Haibatkar after filing of the charge-sheet.

02] The learned APP has strongly opposed the application by filing her say overleaf the application. It is her contention that the present accused are main accused in the crime and deceased has small children. The present accused no.1 has illicit relation with his brother's wife and therefore there present applicants are not entitled for bail. The gravity and severity of punishment is provided imprisonment of 10 years. In such circumstances the applicants are not entitled for bail.

03] Heard Adv. Shri. S.V.Kavle, the learned Counsel for the applicants, and learned APP Smt. A.S.Davkare for the State. It is the submission of learned counsel for the applicants that present applicants are innocent and they are behind bars from 24-01-2024 and since the investigation has been over, and the I.O. has submitted the charge sheet before the court and therefore, applicants needs to be released on bail. He has further submitted that the alleged offences do not attract against the present applicants and therefore, the applicants need to be released on bail. It is his further submission that the false allegations are levelled against the present applicants by the informant on the ground of suspicion and therefore, the applicants need to be released on bail. He further submits that the both the applicants are karta of their family and small kids and old aged mother are depending upon their income and since last three months they are behind the bars, therefore, the small kids and mother will starvation if they are not released on bail. It is his submission that applicants are permanent residents of village Gortha Tq. Umri. It is his further submission that they are ready to abide the terms and conditions while granting bail.

04] I have perused the charge sheets and statements of the witnesses. The learned counsel for the applicants has not disputed that the deceased committed suicide within seven years of her marriage, though the FIR does not mention the specific date of marriage of deceased with applicant No.1. Since the suicide of the deceased is within seven years of marriage presumption under-section 113-A of Indian Evidence Act comes into picture. As per this section, if it is shown that the woman has committed suicide within period of seven years from the date of her marriage and that her husband or such relative of her husband had subjected her to

cruelty, the Court may presume that such suicide had been abetted by her husband or by such relative of her husband. As per the explanation attached to this section, the meaning of cruelty which is given in Section 498-A of the Indian Penal Code has to be understood.

05] The question before me is whether the applicants deserves to be released on bail or not. While considering the grant or refusal of bail, the Court is required to see the gravity of offence and the severity of punishment. The offence under section 306 of IPC is neither punishable with death nor for imprisonment of life. There are no criminal antecedents of the applicants. There is no possibility of applicants to flee from justice. The trial takes much time. The applicants are in custody from 24-01-2024. It also shows that two small kids of accused no.1 and his old aged mother is depending upon his income and both applicants are only earning members of their family. Record also shows that in respect of fear of prosecution that accused are tampering the evidence but considering the final charge sheet informant and applicants are resides are different village, therefore there is no question of tampering the evidence of prosecution witnesses. Even though filing of charge sheet shows that there is material against the accused for trial but as the investigation has been completed and the offence punishable are not for death or life imprisonment. Therefore, no purpose would be served by further detention of the applicants in jail till conclusion of trial. Therefore, it would not be proper to detain the accused behind bars till the conclusion of the trial.

06] So far as the objection of learned APP is concerned, I would like to point out that the same can be taken care of by imposing certain terms

and conditions while granting bail to applicants. I, therefore, proceed to pass the following order:-

ORDER

- 01] Application Exh. 01 is allowed.
- 02] The applicants namely Santosh Nagorao Haibatkhar and Sachin Nagorao Haibatkhar be released on execution of P.R bond of Rs.15,000/-[Rs. Fifteen Thousand only] each and on furnishing surety in like amount on following conditions :-
- A- That applicants shall not commit similar type of offence.
- B- That applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the investigation officer or tamper with the evidence.
- C- The applicants are directed not to enter in the village of informant and witnesses till conclusion of the trial.
- D- The applicants shall not tamper the prosecution witnesses.
- E- The applicants are directed to attend the court regularly and co operate the Court to dispose of the trial as early as possible.

Date: 23-04-2024

(Y.M.H. Kharadi)
Addl. Sessions Judge, Bhokar.

CERTIFICATE

I affirm that the contents of this P.D.F file order are same word to word, as per the original order.

Name of the Stenographer : P.S.Malve, Steno Grade-1

Court Name : Adhoc District Judge-1 & ASJ Bhokar

Date : 23-04-2024

Order signed by the

Presiding Officer on : 23-04-2024

Order uploaded on : 23-04-2024

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