

**ORDER BELOW EXH. 13 IN SESSIONS CASE NO. 1018/2019**

1- This application is for temporary bail in the light of the directions issued by the Hon'ble High Power Committee in the wake of COVID-19 pandemic, in respect of release of Under Trial Prisoners.

2- Heard the learned advocate for the accused and the learned APP for the prosecution. Perused the application, say given by the learned APP, case papers and guidelines issued by the State High Power Committee.

3- Vide letter dated 12.05.2021, received from the Maharashtra State Legal Services Authority, Mumbai, it is directed that the Hon'ble High Power Committee constituted pursuant to the order dated 23.03.2020 passed by the Hon'ble Supreme Court in Suo Moto Writ Petition (Cri) No. 1 of 2020 had convened meeting on 7<sup>th</sup> May (Physical) and 11<sup>th</sup> May 2021 (V.C.) and issued certain guidelines / recommendations which are mentioned in the said communication. Perusal of the said directions show that the decisions taken in the earlier meetings of the High Power Committee dated 25.03.2020 and 11.05.2020 read with Corrigendum dated 18.05.2020, setting out the category of the prisoners to be released on interim bail or emergency parole, are reiterated and shall continue to operate. There is further guideline/recommendation that, considering the change in the circumstances, the prisoners whose applications for interim bail were rejected may apply for interim bail afresh and the same shall be considered by the Court without being influenced by the earlier orders passed by the Courts.

4- The applicant-accused is charge-sheeted by Mundhwa Police Station in Crime No. 216/2019, for the offence punishable under Sections 302, 201, 363, 364(A) of the Indian Penal Code. It is the prosecution's case that, the deceased woman and the applicant-accused came in contact through the social media (Facebook). On 25.07.2019, the son of the deceased woman lodged the missing report that his mother left the house on 22.06.2019 on her two-wheeler Activa and did not return. On the basis of the call records / C.D.R. of the cell number of the deceased woman, it was revealed that the applicant-accused and the said deceased woman were in constant touch with each other. The investigation revealed that the applicant-accused and the deceased woman went at Tamhini Ghat for photoshoot, where, the accused murdered her by inflicting injuries on her neck by the knife and took the valuables which were in the possession of the deceased. The accused came to be arrested on 11.07.2019 and two-wheeler Activa of the deceased came to be seized at his instance. Mobile phones of the deceased came to be seized from the car which was in the possession of the applicant-accused. One knife is also seized during the investigation. The prosecution charge-sheeted the accused with the case that he kidnapped and murdered the deceased woman for ransom.

5- The record show that the learned Additional Sessions Judge before whom the case was pending prior to its transfer to this Court, has rejected the bail application below Exh.7, filed by the applicant-accused under Section 439 of the Cr.P.C., for regular bail, by order dated 28.08.2020. There is nothing to show that on the previous occasion, the applicant-accused has preferred an application for interim bail, pursuant to the guidelines of the High Power Committee.

6- The guidelines have carved out certain exceptions. The guidelines provide that the prisoners, who fall in the '*Class*' or the '*Category*' spell out by the decision will be entitled to be released in accordance with law and in considering every case of such release, the '*Nature of offence*' and the '*Severity of the offence*' shall be considered. The possibility of the prisoner committing offence in case of temporary release (such as habitual offenders) or likelihood of his/her absconding should also be considered as important tests to decline such requests for temporary release.

7- It is true that one of the sections applied in the charge-sheet is Section 364(A) of the I.P.C. which falls in the 'exceptions' carved out by the Hon'ble High Power Committed, in the guidelines. Perusal of the chargesheet show that in the missing report dated 25.06.2019, the son of the deceased woman stated that his mother left the home by saying that she was going to Shirdi with her friends and will park her vehicle at the place of her relatives and will go with them. From this, whether prima facie case for the offence under Section 364(A) of the I.P.C. exists or not, can be considered at the time of framing the charge. It is really debatable whether there is material on record to attract the said Section. The charge-sheet show that the prosecution case is based on circumstantial evidence. The incriminating material such as the CDRs, mobile phones, vehicle etc. are seized by the investigating machinery. From this, it can be said that there is no possibility of tampering with the prosecution evidence. There is nothing to show that the applicant-accused is the habitual offender and therefore, there appears no possibility of his committing such offence. It appears that the applicant-accused is the resident of Pune and therefore, there is no possibility of his absconding. The matter is at the stage of charge and the trial is

yet to began. Under such circumstances, I am inclined to extend the benefit of interim bail to the applicant-accused, as per the guidelines. Hence, the following order :-

**ORDER**

- (i) The application is allowed.
- (ii) Accused **Anand Shivaji Nikam**, be released on temporary bail for a period of 45 days or till such time, as State Government withdraws the notification under Epidemics Act 1987, whichever is earlier, on executing P.R. bond of Rs.30,000/- (Rupees Thirty Thousand only).
- (iii) Accused **Anand Shivaji Nikam**, shall report to the Mundhwa Police Station, once in every 30 days.
- (iv) Accused **Anand Shivaji Nikam**, shall not tamper with the prosecution's evidence, in any manner.
- (v) Accused **Anand Shivaji Nikam**, shall not leave the jurisdiction of Pune District, without the permission of this Court.
- (vi) List the matter on 14.06.2021 for it's earlier stage.

**Pune.**

**Date: 13.05.2021.**

**(Neeraj P. Dhote)**

**Principle District & Sessions Judge,  
Pune.**

I affirm that the contents of this P.D.F.,file judgment are same word for word as per original Judgment.

Name of Steno : Mrs. S. S. Yengul,  
Stenographer (Grade-1)

Court Name : Shri. N. P. Dhote  
Principal District &  
Sessions Judge, Pune.

Date : 13.05.2021.

Judgment signed  
by P.O. on : 13.05.2021.

Judgment uploaded on : 13.05.2021.