

MHRG010001182023



**Spl. (POCSO) Case No. 07/2023**

State of Maharashtra  
(Dadar Sagari Police Station )

V/s.

Roshan Arun Koli & Ors.

**:: ORDER BELOW EXH. 40 ::**  
**[ Passed on 03.10.2023 ]**

1. This is third bail application filed by accused no. 1 Roshan Arun Koli on the ground of parity alleging that, the prime accused i.e. accused no. 5 who illegally aborted the pregnancy of deceased in a most unscientific way, is released on bail by Hon'ble Bombay High Court in bail application no. 1803/2023 and therefore he is also entitled for bail.

2. The prosecution has strongly opposed the application by filing reply Exh. 42 as well as the affidavit of mother of the deceased at Exh. 43.

3. Perused the record. In short the allegations against the accused no. 1 are that, he and his family members i.e. accused no. 2 to 4 subjected the deceased Anita (wife of accused no. 1 ) to cruelty and when Anita remained pregnant on 3<sup>rd</sup> occasion they suspected that pregnancy is not from accused no. 1 and therefore accused no. 1 had taken the deceased Anita to accused no. 5 for termination of her pregnancy and on the say of accused no. 1 accused no. 5

illegally terminated pregnancy of the deceased Anita in a most unscientific way due to which Anita later on died. The accused no. 2 to. 4 are already released on bail, accused no 5 recently released on bail by the Hon'ble Bombay High Court. His bail order is at Exh. 32. On perusal of bail order it appears that, Hon'ble Bombay High Court has considered his advanced age, period for which he remained in jail, trial not begin, his affidavit/undertaking not to make any medical practice, released him on bail. As far as the case of the applicant/accused no. 1 is concerned he is not of advance age, he is prime accused in the matter as he had taken the deceased Anita to accused no. 5 for termination of her pregnancy in illegal and unscientific manner which caused death of deceased Anita. The charge against the accused persons is already framed on 21.08.2023. Thus, the trial has already begin and could be completed within the short period with the co-operation of accused persons and their advocates. The role of the accused no. 1 is not at par with the role of accused no. 5. Therefore, he is not entitled for bail on the ground of parity. Except order of releasing the accused no. 5 on bail there is no change in the circumstances from the previous rejection of bail of accused no. 1. Therefore, he is not entitled for bail.

4. The counsel for accused relied on the authority of Hon'ble Bombay High Court in ***Akshay Bhove V/s. State of Goa reported in 2023(3) Bom. C.R.(Cri.)321*** wherein the Hon'ble Bombay High Court held that, the main accused is already released on bail who has been attributed the specific role in respect of offence leading to the death of victim, where as the

other accused are not in same position and therefore the other accused were released on bail.

5. In the present matter as discussed above the role of accused no. 5 cannot be equated with the role of accused in no. 1 who is the main accused. Therefore the principle laid down in above authority cannot be made applicable in the present matter. Trial is already begin. There is no other change in circumstances from the rejection of earlier bail application. Hence, following order.

**:: ORDER ::**

1. Application Exh. 40 is rejected.

Place: Alibag  
Date: 03.10.2023.

( A. S. Rajandekar )  
Sessions Judge, Raigad-Alibag.

**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 Stenographer : Smt. S. S. Puro (Grade- I)

Court : Principal District Judge,  
Raigad-Alibag.

Date of Order : 03.10.2023.

Order signed by the  
Presiding Officer on : 03.10.2023.

Order uploaded on : 04.10.2023.

**:: OPERATIVE ORDER ::**

1. Application is allowed.
2. Accused No. 1 Kadambari Vijay Chaulkar, be released on bail on furnishing surety of Rs. 30,000/- with personal bond of like amount on condition that,
  - i) She should not tamper with the evidence of prosecution.
  - ii) She should not pressurize the witnesses of prosecution.
  - iii) She should not enter into the village Borli till completion of the trial.

Place: Alibag  
Date: 15.07.2023.

( A. S. Rajandekar )  
Sessions Judge, Raigad-Alibag.