

Special Atrocity Case No.124/2024.

Uran C.R.No.216/2024

- 1 The State V/s. Nijamuddin Ali and others
Exhibit No. 03

MHRG170014872024



ORDER BELOW EXH. 03
IN SPECIAL ATROCITY CASE NO.124/2024
URAN C.R.NO.216/2024
THE STATE OF MAHARASHTRA V/S NIJAMUDDIN ALI AND
OTHERS
(PASSED ON 26th DAY OF SEPTEMBER, 2024)

The applicant/accused No.3 – Meraj Kamaruddin Khan moved this application vide Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 to enlarge him on bail.

2. This application is strongly opposed on behalf of prosecution vide Exh.04.

3. Points for the determination and my findings thereon for the reasons stated below ;

SR. NO.	POINTS	FINDINGS
I.	Whether grounds are justified to release the applicant/accused on bail vide Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ?	No.
II.	What Order ?	The application is Dismissed.

REASONS

4. Perused application, say filed. Heard learned advocate for the applicant/accused Shri.R.R.Patil as well as learned A.P.P. Smt.P.P.Wade for the State. Heard brother and mother of deceased. Heard the investigating officer – Assistant Police Commissioner Shri.Nehul.

AS TO POINTS NO. I AND II :

BRIEF FACTS OF PROSECUTION :

5. The present prosecution is in respect of murder of deceased namely Poonam Chandrakant Kshirsagar, aged 37 years. Initially one unidentified dead body of a lady was found in a village near to the road Chirner to Kharpada on 25.04.2024. The Village Police Patil informed to the police. The incident of murder took place on 18.05.2024. Prior to her murder, the accused No.1 – Nijamuddin Mohamad Rashid Ali raped her. The accused No.1 pressed her throat and ended her near to the river by name Bhatsa. Later he brought the body at Primary Health Center, Khadawali and then to Rural Hospital, Govili, Tal.Kalyan, Dist.Thane. The said doctor declared death of the lady.

6. The accused No.1 raised quarrel with the said

medical officer and later he taken her dead body from the hospital without informing to the hospital. He carried her dead body in a taxi. The accused No.1 brought the dead body in a taxi in front of the hotel of the present applicant and accused No.2 was working as a waiter at the said hotel. The accused No.1 and 2 have thrown the dead body in a canal whereas the present applicant has thrown her mobile by removing SIM card.

7. On that count, initially the Village Police Patil lodged the report Dated 25.04.2024 at Police Station, Uran. The Police Station officer Uran registered Crime No.216/2024 for the offence under Section 302, 201 of the Indian Penal Code against unknown person. Later on name of present applicant/accused No.3 and other accused is disclosed. Further investigating officer added Section 376(2)(n), 34 of the Indian Penal Code and under Section 3(1)(w)(i)(ii) and 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

8. The applicant/accused No.3-Meraj is arrested on 02.05.2024 and produced before the Court on 03.05.2024 and remanded to Police custody till 09.05.2024. Thereafter, he remanded to judicial custody as per order Dated 09.05.2024. The accused is presently in judicial custody.

NOTICE TO VICTIM AND COMPLIANCE OF SECTION 15-A OF

THE ACT - RIGHTS OF VICTIM -:

9. Recently Hon'ble Apex Court in the case of **Hariram Bhambi V/s. Satyanarayan and another in Criminal Appeal No.1278 of 2021 Dated 29th October, 2021** observed that issuance of notice to the victim vide Section 15-A of The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is mandatory.

10. This court in view of Section 15-A(3) of the Act, issued notice to the victim and thereby informed about the hearing of the present application. In pursuance of this notice, the mother and brother of deceased appeared for the hearing of this application. This court, in order to extend right to the atrocity victims vide Section 15-A (5) of the Act, permitted them to have audience for hearing of this bail application. They have objected to release the applicant on bail.

WHETHER GROUNDS OF BAIL ARE MADE OUT ?

11. Needless to mention, the deceased belongs to member of Scheduled Caste. The incident of murder took place by the accused No.1 near Bhatsa river, Khadawali, Tal.Kalyan, Dist.Thane. The accused No.1 carried to the deceased at that place by his taxi. It was discord in between them on account of frequent phone calls to deceased and she had in habit to talk

with the said person for a considerable time. Then the accused No.1 raped her and then brought her near to the stream of river Bhatsa. He pressed her throat and ended her life. The accused No.1 brought her initially at a Primary Health Center and then at a Rural place pretending that the deceased has drawn in the river.

12. In the light of these facts of the crime, it is evident that the allegations of the murder and rape are against accused No.1. The present applicant is the accused No.3. The present applicant runs a hotel at village Dighode, Tal.Uran, Dist.Raigad. According to the investigating officer and on perusal of charge-sheet and case papers, it appears that this applicant has acquaintance with accused No.1 prior to the incident. In the light of call data record, pursuant to the commission of murder of deceased and brought her at hospital, then it was telephonic conversation between present applicant and accused No.1.

13. Further this applicant has hotel at above place. After this telephonic conversation, the accused No.1 by his taxi brought the dead body of deceased without informing to the concerned hospital. He brought the dead body in his taxi and stopped the vehicle in front of the hotel of this applicant. At the hotel of this applicant, the accused No.2 worked as waiter. This accused No.2 was also present over there. The investigating officer recorded statement of other waiter at the said hotel by

name Ali Rajjaq Ayub Ali Umar. On perusal of the statement, it appears that it was discussion in between present applicant and accused No.1 relating to disperse the dead body. Prior to the incident, the accused No.1 used to come to the said hotel and once back to four to five months, he came alongwith one lady.

14. His statement further reveals that on 18.04.2024, the accused No.1 came at the said hotel at 10.30 p.m. He met to the applicant. He asked for tea, that time this witness provided tea to him. The accused No.1 stated to the applicant about the dead body in his vehicle and he has to throw the said dead body. He asked for a big plastic bag, but he replied he did not have. The other waiter namely Soheli/accused No.2 has given him one big plastic bag. Then further the accused No.1 asked where the large quantity of water in the proximate area to which this witness did not reply. Later the accused No.1 and 2 have gone in the said taxi alongwith the said big plastic bag. The accused No.2 returned back by walk. The applicant and accused No.2 have gone and thrown the mobile of the deceased in a canal.

15. In the light of the statement of witness coupled with submission of prosecution, it is apparent that the involvement of present applicant is squarely made out for disappearance of the evidence. The body was thrown in a canal by the accused No.2 and then this applicant and accused No.2 have thrown

mobile in a canal. This applicant used Aactiva/two wheeler to go to the place to dispose of the mobile. The said place was at a distance of 1 to 2 km from his hotel.

16. On the backdrop of this coupled with reply of prosecution in detail filed vide Exh.4, the involvement of this applicant is made out. There is substantial evidence against this applicant. This applicant hails from other State, District Shravasti, Uttar Pradesh, proximate to the Nepal as such, prosecution has apprehension of his absconding once he released on bail. On all these grounds, the applicant does not deserve for bail. I answer Point No.I in the negative. With this, I pass following order ;

ORDER

1.	The application for regular bail vide Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 on behalf of the applicant/accused No.3-Meraj Kamaruddin Khan is dismissed.
2.	A soft copy of this bail order be forwarded to the applicant/accused through Superintendent, Taloja jail by e-mail for information in view of observation of Hon'ble Apex Court in the case of In Re Policy Strategy For Grant of Bail in SMWP (CRIMINAL) NO.4/2021, Dated 31.01.2023.

3.	Inform to concerned Police Station accordingly.
	Dictated and pronounced in Open Court.

Place : Panvel.

(K.G. Paldewar)
Additional Sessions Judge,
Panvel

Date : 26.09.2024.

Arguments heard on	18 th Day of September, 2024.
Judgment/order delivered on	26 th Day of September, 2024.
Dictated on	26 th Day of September, 2024.
Transcribed on	26 th Day of September, 2024.
Checked and signed on	26 th Day of September, 2024.

CERTIFICATE

I affirm that the contents of this PDF file
Judgment/Order is same and as per the original
Judgment/Order.

Name of the Stenographer : P.S.Mhatre
Name of the Court : Additional Sessions Court,
Panvel
Date of Judgment/Order : 26.09.2024.
Judgment/Order signed on : 26.09.2024.
Presiding Officer : K.G. Paldewar
Judgment/Order uploaded on : 26.09.2024.