

ORDER BELOW EXH.3 IN
SESSION CASE NO. 7 OF 2023

(CNR NO.MHRT-04-000-047-2023)

The State
(Through Khed Police Station)

Prosecution

Versus

Kadarbadsha Kasimsab Nadaf

Accused

1. This is a bail application filed by the applicant under section 439 of the Code of Criminal Procedure, 1973 for his release on bail in connection with crime No. 309 of 2022 registered with Khed Police Station for the offence punishable under section 302 Indian Penal Code, 1860
2. I have perused the FIR. The police say report Exh. 4 is on the record. It is reported that between 10:00 pm of 02.11.2022 and 8:00 am of 03.11.2022 the applicant committed murder of his wife by strangulation.
3. The applicant was arrested on 05.11.2022.
4. Heard. Perused the contents of the application, the documents forming the police report u/s 173 Cr.PC.
5. My observations are as follows.
6. There is no eye witness to the incident, as argued by the

learned Advocate for the applicant. The case is based on the alleged disclosure made by the applicant to the alleged neighbours. The incident had occurred between 2 and 3 November 2022. Mostly, the statements of witnesses, as per the learned Advocate, were recorded on 05.11.2022 and that the FIR is also dated 05.11.2022. He further submitted that the prosecution is yet to start the case. The applicant has been implicated merely on the doubt. The applicant, he submitted, shall abide all the bail conditions.

7. So far as the police say Exh. 4 is concerned, on the basis of which the learned APP opposed the present bail application, contents general reasons like 14 articles forming muddemal have been sent for examination, the applicant is from Karnataka State, he may abscond or pressurize the witnesses and threaten the victim, relatives.

8. The trial shall take some time to start and complete. Keeping in view various observations and directions of the Hon'ble Supreme Court in *Satender Kumar Antil v. CBI*¹ I have come to the conclusion that no purpose would be served by keeping the applicant behind the bar. Presumption of innocence prevails. Bail is a rule and jail is an exception. Detention in jail pending the trial against the accused may result in pre-conviction punishment. To take care of the apprehensions expressed through the police say report, necessary directions and restrictions shall be imposed on the applicant.

9. Considering the facts and circumstances of the crime and the present application in the light of aforesaid observations, I have come to the conclusion that the application can be considered positively.

¹ 2022 SCC OnLine SC 825 Dtd. 11/7/2022

10. To take care of apprehensions of learned APP, strict conditions shall be imposed on the applicant while releasing him on bail.

11. If there is any well founded adverse reporting against the applicant regarding violation of any of the bail conditions, the bail which is being granted to the applicant shall be canceled.

12. Resultantly, I pass the following Order.

ORDER

- (1) The application for bail is allowed.
- (2) The applicant arrested in C.R. No. 309/2022 registered at Khed police station under Sections 302 of the Indian Penal Code, 1860, be released on bail in the sum of ₹15,000/- (Rupees Fifteen Thousand only) with one local solvent surety.
- (3) The applicant shall not, directly or indirectly, make any inducement, threat or promise to any witnesses or any person acquainted with the facts of the accusation against him so as to dissuade them from disclosing such facts to the Court or to any Police Officer or he shall not tamper with evidence.
- (4) The applicant shall not commit any offence in future.
- (5) The applicant shall surrender passport, if any, to the concerned Police Station.

(6) The applicant shall not leave India without prior permission of the Court.

(7) Bail before the Court where the remand/case file is pending.

SD/-***

Place: Khed

(Dr Sudhiir M. Deshpande)

Date: 19.06.2023

Additional Sessions Judge, Khed

Case No. :- Session Case No.7/2023 (Order Below Exh.3)

I affirm that the contents of this pdf file Judgment are same word as per original Judgment.

Name of Grade I Stenographer : Sandeep S. Patil

Court Name : Addl. Sessions Judge (Dr Sudhiir M Deshpande)

Date of Decision :- 19.06.2023

Judgment Signed by P.O. on :- 19.06.2023

Judgment uploaded on :- 19.06.2023