

**ORDER BELOW APPLICATION (EXHIBIT 29) IN  
SESSIONS TRIAL CASE NO. 14/2022  
(STATE VS. RESHMA & OTHS.)  
(PASSED ON 06/04/2022)**

**Nature of the Application.**

1. This is an application filed by the accused No. 5-Rajabai Tukaram Mane (for short 'accused') seeking bail under Section 439 of the Code of Criminal Procedure (for short 'Cr.P.C.') in Crime Register (for short 'C.R.') No. 1368/2021 registered at Sangola police station under Sections 302, 201 and 120(B) of the Indian Penal Code (for short 'I.P.C.').

**Contents in the Application.**

2. The accused has contended that she was arrested on 02/11/2021 and since then she is in custody.

3. She is innocent and has not committed any offence. She is falsely implicated in the offence merely because she is sister of the other accused-Reshma. There is no direct evidence against her. There are no circumstances brought on record to show her connection with the death of the deceased-Tukaram (for short 'deceased').

4. The financial transaction was between deceased and the other accused-Sachin and she was not involved in it.

5. She is a woman and is of young age. The co-accused are released on bail. If released on bail, she is ready to abide by the conditions imposed.

6. On these grounds the accused has prayed to grant the application.

**Contents in the Reply of the Additional Public Prosecutor.**

7. The Additional Public Prosecutor (for short 'A.P.P.') has filed reply (Exhibit 31).

8. The A.P.P. has strongly objected the application. He has contended that the accused and the other accused have committed serious offence under Section 302 of the I.P.C. The advance death certificate clarifies that the deceased died due to head injury. It is transpired during investigation that the accused and the other accused-Sachin Lawate, Pradip, Sachin Ghodake and Reshma were in contact with each other and called the deceased out of his house on 30/10/2021 and committed his murder as the accused-Sachin was having illicit relation with the accused. Further, the accused gave Rs. 38,00,000/- to the accused-Sachin and the deceased was asking for its account therefore, the accused and the other accused joined hands together and stopped the deceased's motorcycle at Mhasoba Mal of village Shivane on 30/10/2021. The accused-Sachin Lawate and Pradip gave bamboo stick blow on his head and committed his murder. Thereafter, the accused-Sachin Lawate, Pradip and Sachin Ghodake brought the deceased's dead body and motorcycle in a vehicle bearing registration No. MH-12/EQ-5079 (for short 'vehicle') near stream-let of village Ekhatpur and tried to cause disappearance of evidence of offence. The weapon is recovered as per memorandum panchnama. The bank statement showed the amounts credited to the accounts of the accused-Sachin Lawate. Thus, there is strong evidence against the accused.

9. If the application is granted the accused will pressurize the witnesses.

10. On these grounds the A.P.P. has prayed to reject the application.

### **The Arguments.**

11. I have heard Shri. V. S. Bendgude, advocate for the

accused and Shri. S. V. Wangikar, A.P.P for the prosecution, in extenso.

12. They argued in consonance with the contentions in the application, say and referring the documents produced on record. In order to avoid repetition it is not necessary to note those arguments.

**Points and Findings.**

13. Upon hearing the following points arise for my consideration and I record my findings thereon as under for the reasons to follow :-

	<b>Points</b>	<b>Findings</b>
1)	Whether a case has been made out by the accused for granting the relief of bail, as prayed for ?	No.
2)	What order ?	Application Rejected.

**Reasons as to Point Nos. 1 and 2.**

14. The F.I.R. clarifies that the accused and the other accused-Sachin Lawate, Pradip, Sachin Ghodake and Reshma were in contact with each other and called the deceased out of his house on 30/10/2021 and committed his murder as the accused-Sachin was having illicit relation with accused. Under such circumstances when the deceased is killed brutally by the accused and the other accused, it cannot be said that she is falsely implicated in the offence.

15. The evidence on record showed that the accused and the other accused-Sachin were having illicit relation and the accused gave Rs. 38,00,000/- to the other accused-Sachin and the deceased was asking for its account therefore, the accused and the other accused joined hands together and killed him. The statements of the witnesses prove that the accused is involved positively in killing the deceased, prima-facie. Therefore, it cannot be said that the accused was not

involved in killing the deceased.

16. In view of all the facts and the intention gathered from all the circumstances it could be said that case is made out under Sections 302 and 201 of the I.P.C., prima-facie.

17. After considering the facts and circumstances and the role played by the accused in commission of crime it is clear like cloudless sky that the accused has committed an offence under Sections 302 and 201 of the I.P.C. which is of serious nature. There is sufficient evidence against the accused, prima-facie. Therefore, the accused is not entitled for bail.

18. The word 'parity' means the state or condition being equal or on a level; equality; equality of rank or status. In other words it means being placed at the same footing. All the accused of a case always do not stand on the same footing. While considering bail of different accused the court has to find out whether they stand on the same footing or not. Even if role assigned to various accused is same yet they may stand on different footing. Nonetheless the principle of grant of bail on parity cannot be allowed to be carried to an absurd or illogical conclusion so as to put a judge in a tight and straight jacket to grant bail automatically.

19. Thus, the word 'parity' connotes a state when a person is placed on the same footing as the other person. However, parity cannot be the sole ground for granting bail even at the stage of second or third or subsequent bail applications when the bail applications of the co-accused whose bail application had been earlier rejected are allowed and co-accused is released on bail. Even then the court has to satisfy itself that, on consideration of more materials placed, further developments in the investigations or otherwise and other different

considerations, there are sufficient grounds for releasing the applicant on bail. If on examination of a given case, it transpires that the case of the applicant before the court is identically similar to the accused on facts and circumstances who has been bailed out, then the desirability of consistency will require that such an accused should be also released on bail.

20. Undisputedly, the co-accused are released on bail. However, the accused is not entitled to be released on bail on the ground of parity because the role played by the accused, as alleged by the prosecution is not identically similar to the co-accused on facts and circumstances, who have been bailed out. Moreover, the Hon'ble High Court while deciding the bail applications of the other accused-Reshma, Pradeep and Sachin Ghodake has specifically observed that the motive of the crime was attributed to the accused No. 5 and the accused No. 2 means to the accused and the other accused-Sachin Lawate.

21. I am unable to persuade myself with the argument advanced by Shri. Bendgude, advocate for the accused that the accused is entitled for bail because (i) she is not involved in any criminal activity (ii) she is falsely implicated in this case with ulterior motive. (iii) there is no direct evidence against her and (iv) there are no circumstances brought on record to show her connection with the death of the deceased. The reasons are :-

- That positive involvement of the accused is brought on record that she and the other accused joined hands and killed the deceased, prima-facie.
- That the offence alleged to have been committed by the accused is very serious.
- That the possibility of the accused tampering with the

witnesses cannot be ruled out considering her involvement, the nature of offence.

➤ That considering my discussion, supra.

22. To sum up, the offence with which the accused is charged is of serious nature. **There is prima-facie evidence to hold accused's involvement in the offence** (emphasis supplied). The facts disclosed from the final report would show that the evidence collected is sufficient to constitute an offence under Sections 302 and 201 of the I.P.C. as well as positive involvement of the accused. If the application is granted it will hamper the trial. The involvement of the accused in the crime registered against her is clear. **Considering the merits of the matter, gravity of the offence and positive involvement of the accused, she is not entitled for bail.**

23. In view of the above-mentioned facts and circumstances of the case, I am declined to grant bail to the accused.

24. It is made clear that the observations made in this order are made for the limited purpose of this application only and all parties are at liberty to agitate their respective cases at the time of trial in the case on merit without being prejudiced even in the least by any of the observations made in this order.

25. Accordingly, I answer point No. 1 in the negative and point No. 2 as application rejected.

26. In the result, following order :-

**ORDER**

The application (Exhibit 29) is rejected.

(Pronounced in the open Court).

Date : 06/04/2023.

(M.B.Lambe)  
Additional Sessions Judge,  
Pandharpur.

**C E R T I F I C A T E**

I affirm that the contents of this PDF file Order is same word to word as per the original Order.

- (a) Name of the Stenographer : Sou. M. M. Kulkarni
- (b) Court : M. B. Lambe,  
District Judge – 1 &  
Addl. Sessions Judge, Pandharpur.
- (c) Order signed by P.O. on : 06/04/2023
- (d) Order uploaded on : 07/04/2023