

-: ORDER BELOW EXH.07 IN SESSIONS CASE NO. 38/2022. :-
(Delivered on this 19th day of July 2022)

1. With change in circumstances, accused Ranjana Panjabrao Devkar moved this court vide Section 439 of the Code of Criminal Procedure, 1973, seeking bail in connection with C.R. No. 587/2021 registered with Police Station Kalamb, Dist. Yavatmal for the offence punishable U/sec. 302, 451, 363, 364, 120-B, 201 r/w 34 of the Indian Penal Code.

Bonsai facts are as follows :-

2. Informant viz. Shalini Suresh Pawar hails from Village Tirasada, Tq. Kalamb. In the night of 15/11/2021, four unidentified persons trespassed into her house and kidnapped her husband forcibly. She resisted but all in vain. The informant rushed to the police station and reported said incident to the police. Accordingly, she set the investigation into motion and crime bearing No. 587/2021 for the offence P/U/S 451,363,364 r/w 34 of the Indian Penal Code was registered. Amid inquiries, Police found dead body of informant's husband with his mouth wrapped tightly by cloth in Wardha River. The body was identified by the informant. It was revealed in further investigation that few unidentified persons along-with accused applicant brutally murdered husband of the informant by entering into criminal conspiracy. They hatched the conspiracy and killed her husband in Ertiga Car so also they tried to dispose of his dead body by throwing corpus in Wardha River. Further statement of the informant was recorded. Offence punishable under section 302 r/w 120-B was added in the crime. Amid investigation, all accused including present applicant were arrested, interrogated and after initial Police custody remanded to Magisterial custody. The accused/applicant is in MCR so on till date.

(2)

3. *Per se* accused/applicant, she is innocent and falsely implicated in the crime. She is nowhere concerned with the alleged felony. The bunch of *actus reus* posed against her are baseless. There is no iota of evidence revealing she is involved in the alleged crime. The prosecution does not blame the applicant as an actual culprit in the said crime. She is remanded to MCR. Till date she is behind the bar. She is suffering from throat disease which requires medical treatment. Nothing is remained to recover or discovered at the instance of this accused. Now Charge-sheet is filed and investigation is completed. As such physical custody of the accused is no more required for any sort of custodial interrogation. The accused is merely arrested on the say of co-accused. It is further urged that, the accused is ready to abide by the terms and conditions if any imposed upon her. She is ready to cooperate in the trial. Finally, accused implored for her release on suitable bail.

4. *Countering stance*, the prosecution raised potent objection for freeing of accused through their detail reply below Exh.09. According to them, offence leveled against accused are serious in nature. Present accused has played significant role in the offence whereby she is having common intention with other co-accused. She is part of the conspiracy and with their ill will they brutally killed informant's husband. They have active involvement in the crime. On the count of recurrence as well as gravity of crime, prosecution prayed for rejection of the application in *limine*.

5. Heard learned advocate Shri K.G.Mutyalwar for the accused applicant and learned APP A.S. Verma for the prosecution at length.

6. Accused is engulfed for the offence punishable U/sec. 302, 451, 363, 364, 120B, 201 r/w 34 of the Indian Penal Code, 1860. The

case is committed to this court for due deliberation and trial. It is now stands over for framing of charge wherein accused moved instant application for her release on regular bail.

7. Scanned Charge sheet as well as say cum other documents pertaining to investigation keenly. At the outset it is to be noted that in present crime charge sheet is already filed before the Court. As such investigation as regards with present crime *viz a viz* the accused is concerned, is almost completed. It is epochal to mention here that, principally offences punishable U/sec. 302, 451, 363, 364, 120-B, 201 r/w 34 of the Indian Penal Code are alleged against all accused. All bunch of felony posed against the accused are serious in nature. Charge Sheet is filed in present crime but it is urged by the prosecution that further investigation is going on in present crime. Grave offence of murder is alleged against the accused applicant. The entire conspiracy of murder is yet to be unfolded. The name of the accused has specifically *come in fore* during investigation. Material witnesses are stating in the same line and its linkage with conspiracy. It is a matter of trial whether the conspiracy as well as abatement of the crime is specifically discovered or not. There is use of car which has been shown to have recovered at the behest of the co-accused during PCR. A missing FIR has turned into a case of murder. The alleged conduct that the deceased was abducted and kidnapped from his house in the night time. He was murdered in a running vehicle and thereafter his dead body was tried to be disposed of in Wardha River. These facts exhibit brutality of the crime. This form is serious and unveils attitude of the accused. Now also there is every possibility that at this stage of investigation accused may flee from the justice. Thus, aforesaid things disown claim made by accused as a whole.

8. Learned advocate for the accused Mr. K.G.Mutyalwar with all the eloquence at his command did rely upon following verdicts and

(4)

prayed for enlargement of the accused on bail. The bunch of verdicts are as follows:-

1. Dr. Dattatraya Samant V. State of Maharashtra, 1981 Bom.C.R. 193,
2. State of Kerela V. Raneef 2011 CJ (SC) 1
3. Sanjay Chandra & Ors. V. CBI 2011 CJ (SC) 257
4. Shiney Ahuja V. State, 2010 (2) Crimes 626
5. Iqbal Ahmed Kabir Ahmed V. S. Mah. 2011 ALL MR (Cri) 3105
6. Uttam Singh V. State of Himachal Pradesh 2021 ALL MR (Cri) J. 75

In the light of submissions I have gone through all above verdicts minutely. Indeed, they are enlightening on the law of bails however, on the touchstone of factual aspect they deferred with the fact of case in hand. The verdicts are contemplating legal mandate but the instant crime there are no such exigencies to invoke them. Ultimately they are not useful to the accused to press upon their case for release.

9. Apogee of circumstances manifested above, I believe at present there is no specific reason to enlarge accused upon bail. Although charge sheet is filed, but that alone does not mean, it is the only criteria to decide application seeking regular bail. Further investigation is awaited and the alleged offence contemplate death penalty for the same. Ultimately, at the moment the application deserves disapproval.

10. On account of foregoing peculiarities and factual scenario, Considering the grave nature of offence, form of conspiracy and further investigation is in progress, it would not be proper to release applicant /accused on bail, at the moment. Hence, I pass the following order :-

ORDER

Application stands rejected.

Date : 19/07/2022.

(Amit Anant Laulkar)
Additional Sessions Judge,
Yavatmal.