

**-: ORDER BELOW EXH.156 IN SESSIONS CASE NO. 38/2022. :-**  
*(Delivered on this 19<sup>th</sup> Day of July 2023)*

1. Accused/applicant Sunil Kavdu Kuchankar 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/secs. 302, 451, 363, 364,120-B, 201 r/w 34 of the Indian Penal Code.

2. Post filing of the final report vide section 173 of the Code of Criminal Procedure, when the case was stand over for further deliberation instant accused applicant knocked the doors of this court with present bail application and crave for his release on suitable bail.

**Concise facts are as follows :-**

3. 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.

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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.

4. *Per se* accused/applicant, he is innocent and falsely implicated in the crime. He is nowhere concerned with the alleged felony. The bunch of *actus reus* posed against him are baseless. There is no iota of evidence revealing he is involved in the alleged crime. He is remanded to MCR. Till date he is behind the bar. 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 custodial interrogation. It is further urged that, the accused/applicant is ready to abide by the terms and conditions if any imposed upon him. He is ready to cooperate in the trial. At the end, accused implored for their release on suitable bail.

5. *Refuting stance*, the prosecution raised potent objection for freeing of accused persons through their detail reply below Exh.158. According to them, offence leveled against accused are serious in nature. Present accused has played significant role in the offence whereby he is having common intention with other co-accused. He is part of the conspiracy and with their ill will they brutally killed informants 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*.

6. Heard learned advocate Shri V.D. Darne for the accused applicant and learned PP Mrs. N.N. Dave for the prosecution at length. I have gone through entire proceeding keenly.

7. Mused over remand papers as well as say cum other documents pertaining to investigation as made available by the prosecution.

8. 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. At the outset it is epochal to note that, the investigation herein has been completed. 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. He is named as main conspirator. Major role is attributed towards applicant accused. 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 the accused may flew from the justice. Thus, aforesaid things disown claim made by the accused as a whole.

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. Major allegations are

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attributing towards applicant accused. He is duly identified by the informant in T.I. parade. Whatever evidence is collected amid investigation is tilting against him. Although co-accused are released on bail but the rule of parity is inapplicable as the role attributed against applicant accused and then are totally different. Further investigation is awaited and the alleged offence contemplate death penalty for the same. Ultimately, at the moment the application deserves disapproval.

10. Up-shot of foregoing peculiarities and factual scenario, Considering the grave nature of offence, form of conspiracy and attribution of major role in the crime, it would not be proper to release applicant /accused on bail. Hence, the order :-

### **ORDER**

Application stands rejected.

Date : 19/07/2023.

**(Amit Anant Laulkar)**  
Additional Sessions Judge,  
**Yavatmal.**