

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.2210 OF 2015

SHUBHANGI W/O CHANDRAKANT BADHE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicants : Mr. M.P. Bhaskar
APP for Respondents : Mr. S.D.Kaldate

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CORAM : V.K. JADHAV, J.
Dated: May 22, 2015
(VACATION COURT)

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PER COURT :-

1. Heard the learned counsel for the applicant and the learned APP for the Respondent State. Read the application.

2. On the basis of the complaint lodged by one Chandrakant Sopan Badhe dated 10.12.2014, Crime bearing No.156/2014 for the offence punishable under sections 302, 109, 323, 504, 506 read with Section 34 of the Indian Penal Code came to be registered at Sangamner Taluka Police Station, Tq. Sangamner, District Ahmednagar. The present applicant is the wife of the complainant Chandrakant. It has alleged in the complaint that, the applicant had illicit sexual relations with the co-accused Samir Pathan. Consequently, complainant Chandrakant had given understanding to co-accused Samir, but he had not paid any heed to it. Even the

police gave warning to co-accused Samir. Therefore, co-accused Sameer got annoyed with the complainant. On 10.12.2014 at about 05.30 p.m. when the complainant was proceeding to his field, co-accused Sameer abused and threatened him. Even when the complainant was returning from his field, co-accused Sameer again abused him and exchange of words had taken place between them. Thereupon, complainant has called his brother deceased Somnath. At that time, co-accused Sammer and his brother Akbar were standing in front of the hair cutting saloon. Deceased Somnath had raised question to co-accused Sameer about his conduct. Thereupon co-accused Akbar caught hold Somnath and co-accused Sameer stabbed him by knife. Thereafter, both the accused ran away. Thereafter Somnath was shifted to one private hospital and then to Rural Hospital, Sangamner, where he was declared dead on arrival.

3. On the basis of these allegations, crime as aforesaid came to be registered. Police Station Sangamner Taluka has carried out the investigation and finally submitted charge sheet against the accused. Present applicant came to be arrested on 26.12.2014. This application is moved for getting release on bail.

4. The applicant has also filed an application for similar prayer before the Additional Sessions Judge, Sangamner, who has rejected the same by order dated 9.4.2015 in Criminal M.A.No.49/2015.

5. So far as the applicant is concerned, admittedly she was not present when co-accused Akbar and Sameer assaulted deceased Somnath and co-accused Sameer inflicted blow of knife. Consequently, the present applicant is charged for the offence punishable u/s 302 and 109 of the Indian Penal Code. Section 109 is attracted even if the abettor is not present when the offence abetted is committed, provided that he had instigated the commission of offence or engaged with one or more other persons with conspiracy to commit an offence and pursuant to conspiracy, some act or omission taken place.

6. Here in this case, learned APP has pointed out statement of one Yogesh Kale recorded during the course of the investigation. This witness has stated that co-accused Sameer has made a statement before him that deceased Somnath was giving threats to present applicant and the applicant was frightened. Co-accused Sameer has further made a statement before said witness Yogesh that he himself

and present applicant Shubhangi had decided to finish deceased Somnath.

7. On the backdrop of these statements, on perusal of the entire charge sheet, I prima facie do not find any act or omission on the part of the present applicant so as to say that the act of inflicting a blow of knife on the person of deceased Somnath was done in pursuance of the conspiracy hatched by the present applicant and co-accused Sameer Pathan. On the other hand, allegations made in the complaint and facts revealed during the course of investigation, it appears that at the time of incident, co-accused Sameer and co-accused Akbar were standing in front of saloon and complainant and deceased Somnath on their own had gone towards the co-accused Akbar and Sameer. Thereafter, deceased Somnath had questioned co-accused Sameer about his behaviour and thus accused Sameer inflicted a blows of knife on his person. Had there been any conspiracy between the applicant and co-accused Sameer, co-accused Sameer would have taken certain steps to find out deceased Somnath to teach him a lesson in pursuance of the said conspiracy. There are no circumstances except the statement of witness Yogesh indicating alleged conspiracy. Thus, in absence of any such

evidence, I am inclined to grant bail to the applicant. In view of this, following order is passed.

ORDER

1. Application is allowed.
2. The applicant – Shubhangi w/o Chandrakant Badhe be released on bail on her furnishing P.B. Of Rs.25,000/- (Rs. Twenty Five thousand only) with one solvent surety of the like amount, in connection with Crime No.I-156/2014 registered with Sangamner Taluka Police Station, for the offences p/u/s 302, 109, 323, 504, 506 read with Section 34 of the Indian Penal Code, on following condition :

That the applicant shall not tamper with the prosecution evidence in any manner.

3. Bail before the Lower Court.
4. Application stands disposed of.

**(V.K. JADHAV)
VACATION JUDGE.**

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aaa/-