

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

**CRIMINAL APPLICATION NO. 5172 OF 2015**

Anjali w/o Kishor Rothe,  
Age: 28 years, Occ: Agri.,  
R/o. Jategaon, Tq. Vaijapur,  
Dist. Aurangabad.

...Applicant

versus

The State of Maharashtra.

...Respondent

**WITH  
CRIMINAL APPLICATION NO. 5595 OF 2015  
IN  
CRIMINAL APPLICATION NO. 5172 OF 2015**

Bhanudas s/o Karbhari Rothe

...Applicant

versus

The State of Maharashtra & anr

...Respondents

...

Mr. N.S. Ghanekar, Advocate for the applicant  
Mr. S.N. Morampalle, Addl. Public Prosecutor for respondent  
Mr. U.A. Khekale, Advocate for original complainant

...

**CORAM : N.W. SAMBRE, J.**

**DATE : 21st OCTOBER, 2015**

**ORAL ORDER :**

Criminal Application No. 5595 of 2015 to assist the  
prosecution is allowed.

2. The applicant herein was arrested on 22/03/2015 in  
Crime No. I-21/2015 registered at Virgaon Police Station, Tq.

Vaijapur, District Aurangabad pursuant to the F.I.R. dated 22/03/2015 for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code.

3. It is the case of prosecution that the present applicant and her husband Kishor were staying in the field and the applicant was having illicit relation with the deceased Appasaheb, who was L.I.C. Agent. According to prosecution case, the deceased was murdered by present applicant, as it is an admitted fact on record that the applicant herein was having illicit relation with Appasaheb.

4. The charge sheet in the matter, after investigation, came to be filed on 18/06/2015 and upon perusal of the papers, it reflects the cause of death of Appasaheb was because of injuries.

5. While trying to make a case for grant of bail, learned Counsel for the applicant, would submit that in view of admitted fact on record as is apparent from the contents of application preferred by the complainant that the applicant herein was having illicit relation with deceased Appasaheb, there was no cause or *mens rea* on the part of applicant to murder Appasaheb. He would then urge that it was noticed that body of Appasaheb was found in the field where the applicant along with her husband Kishor was residing and the

circumstances on which body was found, prompts that Appasaheb was murdered either by Kishor or by some other person, however, not by present applicant, in view of above referred back ground of illicit relation. He would urge that there is no recovery from the applicant, such as bloodstained clothes, any weapon used in commission of crime in question. According to him, the case is based on circumstantial evidence. He has invited my attention to the payment of premium receipts which are placed on record at Page Nos. 130A and 130B so as to canvass that the cause that was mentioned by deceased Appasaheb for visiting place of the applicant for collection of premium was incorrect.

6. Learned A.P.P., while opposing the bail application, would urge that deceased Appasaheb has died due to multiple injuries and admittedly in the field where the applicant alongwith her husband was residing, as such, cause of death of Appasaheb is within special knowledge of the applicant. Apart from above, according to him, having regard to the illicit relations of applicant with Appasaheb, the applicant herein might have conspired with her husband Kishor so as get rid of appasaheb.

7. Learned Counsel for the complainant, while assisting learned A.P.P. would urge that it is a fit case wherein this Court

should look for further investigation in the matter. He would urge that complainant is receiving threats from Ramrao, father of accused Kishor and same aspect is not looked into by investigating agency properly. According to him, the application is liable to be rejected.

8. Having perused the contents of the charge sheet, it is required to be noted that the entire case of the prosecution is based on circumstantial evidence. In the background of allegations of illicit relation of the applicant with deceased Appasaheb, during investigation nothing incriminating from the custody of applicant including that of blood stained clothes or weapon was recovered. Apart from above, it is required to be noted that in view of admitted position on record about illicit relation, Mr. Ghanekar is right in pointing out that the applicant had no occasion to kill deceased Appasaheb, particularly when it is not the case of prosecution that relationship between applicant and Appasaheb were strained. The entire case of the prosecution is based on circumstantial evidence.

9. The charge sheet in the matter is already filed and no fruitful purpose will be served by detaining the present applicant in the custody. In this back ground, it will be appropriate, in my opinion to grant bail to the applicant. Hence, I propose to pass the following order :-

The applicant be released on bail, upon executing the P.R. bond of Rs.15,000/- (Rs. Fifteen thousand) with one surety in the like amount, in connection with Crime No. I-21/2015 registered at Virgaon Police Station, Tq. Vaijapur, District Aurangabad for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code.

10. The application stands allowed.

**[ N.W. SAMBRE, J. ]**

Tupe/21.10.15