

Nalawade

FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.403 OF 2017

Mrs. Rajlaxmi S.Mandal vs. The State of Maharashtra

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Vijay Hiremath for the applicant.

Mr.M.G.Patil, APP for the Respondent-State.

CORAM :A.S.GADKARI, J.

DATE : 27th March, 2017

P.C.

1) This is an application under Section 439 of the Cr.P.C. for bail in CR No.399 of 2016 dated 31.7.2016 registered with Tulinj Police Station, District Palghar under Section 307,304, 326, 324 of the Indian Penal Code.

2) The first information report is lodged by Shri. Bajrang Shivsambat Singh (deceased) on 31.7.2016. It is the case of the prosecution that the applicant and her husband Sandip Kumar Mandal were residing in Room No.403, Laxman Plaza, Ambawadi, Tulinj road, Nalasopara (E), Taluka Vasai, District Palghar. That, due to severe differences between the applicant and her husband, her husband had left the said premises for a year prior to the date of the incident. That, the deceased Bajrng was the Chairman of the society wherein the applicant was residing. The applicant was insisting and pressuring Bajrang Singh to transfer the room in her name by changing the name of her husband from the record of the

society. That, on 31.7.2016 at about 9.30a.m. the applicant knocked the door of the informant and asked him whether her husband is inside. After entering into the house of the informant the applicant started quarreling and assaulted the informant with a vegetable knife on his face and right hand. When the sons of the informant namely Niraj and Nikhil tried to intervene and pacify the said assault they were also assaulted by the applicant. The informant and his sons were thereafter taken for the medical treatment. The informant Shri. Bajrang Singh was admitted to hospital and was discharged on or about 2.8.2016. The record further reveals that the informant Shri. Bajrang Singh expired on 15.8.2016 and the cause of death as has been mentioned in the post mortem report is "due to cardiac arrest and due to acute myocardial infarction". The applicant is arrested on 31.7.2016 The police after completion of investigation have submitted the charge sheet.

3) The record further reveals that on 2.8.2016 the Investigating Officer submitted an application before the Magistrate at Vasai for altering section 326 to 324 of the I.P.C. The said application is moved in view of the medical certificates issued by the Medical Officer and the injuries suffered by the victims therein. As stated earlier the date of assault on the victim is 31.7.2016 and he was discharged from hospital on 2.8.2016. That the said Mr. Bajrang Singh died on 15.8.2016 due to cardiac arrest and due to acute myocardial infarction. Prima facie, it appears that there is no direct nexus between the injuries suffered by the said Bajrang Singh due to assault committed by the applicant on 31.7.2016 and his death on 15.8.2016. It is stated by the prosecution that the said Mr.

Bajrang Singh was suffering from psychological pressure as his honour in the society was lowered due to the said assault which led for causing of the said heart attack. As far as injuries suffered by the sons of Shri. Bajrang Singh are concerned the Investigating agency while their aforesaid letter 2.8.2016 have admitted that the said injuries were simple in nature which prompted it to file application for altering of section from 326 to from 324.

4) It is pertinent to note that though the police themselves have stated that the offence of assault attracts Section 324 of the I.P.C. however, while submitting the charge sheet offence under Sections 307, 326 and 324 is mentioned in it. As far as application of Section 304 of the I.P.C. is concerned as stated earlier the cause of death of the Bajrang Singh has prima facie no direct nexus with the assault dated 31.7.2016. The applicant is a woman and is in Jail since 31.7.2016.

5) In view of the above, I am of the opinion that the applicant has made out a case for his release on bail.

Hence, the following order.

a) The applicant be released on bail in CR No.399/2016 registered with Tulinj Police Station, District Palghar on her furnishing PR bond of Rs.25000/-with one or two solvent local sureties in the like amount.

b) After her release from Jail the applicant shall not enter the jurisdiction of Tulinj Police Station. District Palghar during the pendency and till the conclusion of the trial.

c) Before her release from Jail the applicant shall furnish her residential address to the Trial Court and also to the Tulinj Police Station where she intends to reside.

- d) The applicant shall attend each and every date before the Trial Court.
- e) Any two consecutive defaults in complying with the aforesaid conditions shall attract the provisions of cancellation of bail.
- f) After her release from Jail the applicant is permitted to enter room No. A-403 Laxman Plaza, Ambawadi, Nalasopara(E), Tal. Vasai, District Palghar only for collecting her belongings at once. When the applicant will enter into the jurisdiction of the Tulinj Police Station on the said date she shall not contact any of the witnesses in the present crime and after collecting her belongings she shall immediately leave the jurisdiction of Tulinj Police Station.
- g) Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)