

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1507 OF 2016

Nirmaladevi Raghuveen Singh

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Prashant G. Pandey Advocate for Applicant.

Ms. R. M. Gadhvi APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 12th JANUARY, 2017.

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 01/06/2015 in crime no. 212 of 2015 registered at Ghatkopar Police Station on 01/06/2015. Investigation is completed and charge-sheet is filed against the applicant on 07/08/2015 for offence punishable under section 302 r/w 34 of the Indian Penal Code. Applicant herein happens to be mother of original accused nos. 2 & 3.

2) It is the case of the prosecution that on 01/06/2015, Sagar Bagul lodged a report at the police station alleging therein that one year prior to the incident, his brother Gokul had quarrel with Mahesh Magare. Gokul had assaulted Mahesh Magare and hence, charge-sheeted for offence punishable under section 307 of the Indian Penal Code. It is alleged that Gokul was

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enlarged on bail just 23 days prior to 01/06/2015. According to the first informant, on 01/06/2015, Akshay Potbhare had informed him that his brother Gokul is being assaulted by some persons. He rushed to the spot as stated by Akshay. There he saw Mahesh Magare, Manjit Singh, his brother Manoj @ Ranvirsingh and present applicant assaulting Gokul. According to the first informant he had actually seen three persons assaulting Gokul with chopper and the present applicant assaulting Gokul with a piece of stone. It is alleged that the moment they saw the first informant, the assailants had fled from the spot. Neighbours had gathered on the spot and Gokul was rushed to the hospital where he was declared dead.

3) It is pertinent to note that although there is an eye witness to the incident who happens to be the real brother of the deceased, initially A.D. No. 93 of 2015 was registered under section 174 of the Code of Criminal Procedure, 1973. The inquest panchanama was conducted in A.D. Inquiry. The F.I.R. was lodged on the same day. Although the brother was an eye witness and that he had identified the dead body at the time of inquest panchanama in the hospital, case was registered under section 174 of the Code of Criminal Procedure, 1973.

4) Be that as it may, post-mortem notes would clearly indicate that deceased Gokul had sustained injuries which can be inflicted by chopper. The allegation against the present applicant is that she had assaulted with a piece of stone. Moreover, the applicant happens to be a woman. The co-accused i.e. accused nos. 2 & 3 are in jail. There is ample evidence against original accused nos. 2 & 3. Applicant deserves to be enlarged on bail. However, it is made clear that observations made herein above are restricted to an application under section 439 of the Code of Criminal Procedure, 1973 and shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

ORDER

- (i) Application is allowed.
- (ii) Applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs. 15,000/- with one or more sureties in the like amount.
- (iii) Applicant shall give her permanent address and other details after being enlarged on bail.
- (iv) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)