

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 1717 OF 2018

Sunanda Bapu Wagh

..Applicant

v/s.

The State of Maharashtra .

..Respondents

Ms. Grishma Lad for the Applicant.

Mr. S.R.Agarkar, APP for the State.

Mr. B.D.Patil, Police Sub Inspector, Satana Police Station, present.

CORAM : ANUJA PRABHUDESSAI,J.

DATED : OCTOBER 06, 2018.

P.C.

1. This is an application under Section 438 Cr.P.C. filed by the aforesaid applicant apprehending his arrest in C.R.No.112 of 2018 registered with Satana Police Station, Malegaon, District Nashik for offences under Section 302, 323, 504, 506 r/w. 34 of Indian Penal Code.

2. Heard Ms.Lad the learned Counsel for the applicant and Shri Agarkar, the learned APP for the State. I have perused the records and considered the submissions advanced by the learned Counsel for

the respective parties .

3. The aforesaid crime was registered pursuant to the FIR dated 5th July, 2018 lodged by Varsha Kakaji Wagh. A perusal of the FIR prima facie reveals that on 1st July, 2018 at about 5.45 p.m. the first informant had learnt that her father in law Vasant Ananda Wagh was being assaulted by his nephew Vikas Bapu Wagh. Hence she and her mother-in-law went to the place of incident. They saw Vikas Bapu Wagh assaulting Vasant Wagh with a wooden danda. Said Vikas Bapu Wagh and his mother Sunanda i.e. the applicant herein were also abusing Vasant Ananda Wagh. Said Vasant had sustained injuries i.e. one reddish contusion of the temporal region of skull and two contusions on the left scapula. She has stated that her father-in-law had told her that Vikas had assaulted him with a danda.

4. The medical record indicates that the death of said Vasant Ananda Wagh was due to cerebral damage due to blunt trauma to head. The material on record prima facie indicates that the said injury was inflicted by the co-accused Vikas. The material on record does not prima facie indicate that the applicant herein was armed with any weapon or that she had inflicted any injury on said Vasant.

The only allegation against the applicant is that she had abused said Vasant Anand Wagh. It is true that Section 34 of IPC recognizes the principles of Vicarious liability. However, the question whether the applicants shared 'common intention' and whether she had acted in furtherance of the common intention is a matter, which will have to be decided on merits of the matter.

5. Considering the nature of the allegations leveled against the applicant by order dated 29th August, 2018, the applicant was granted interim bail and she was directed to report to the Investigating Officer as and when required. The learned Counsel for the applicant submits that the applicant has already reported to the Investigating Officer and that she has been interrogated. The learned APP submits that the investigation is almost concluded and therefore the presence of the applicant is not required for custodial interrogation. Furthermore, the applicant is a permanent resident of Satana, District Nashik, and there are no chances of her absconding or thwarting the course of justice. There are no criminal antecedents against the applicant.

6. Considering the above facts and circumstances, the application

is allowed on following terms and conditions:-

- (i) In the event of arrest of the applicant in Crime No.112 of 2018 registered with Satana Police Station, Malegaon, District Nashik, the applicant be released on bail on furnishing bail bond of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two solvent sureties in the like amount, to the satisfaction of the Investigation Officer.
- (ii) The applicant shall provide her permanent as well as temporary address, if any, and her contact details to the Investigating Officer.
- (iii) The applicant shall not change her residential address without prior intimation to the Investigation Officer.
- (iv) The applicant shall not tamper with the evidence , or interfere with the complainant and the other witnesses in any manner.

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signed by
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Pradeep
Salgaonkar
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(ANUJA PRABHUDESSAI, J.)