

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

BAIL APPLICATION NO.1227 OF 2019

Bina Sunil Rathod .. Applicant

Vs.

State of Maharashtra .. Respondent

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Mr.Vinod Prajapati a/w. Mr.Prath and Manan Sanghai, S. i/b.
Mr.Shashikant Sasane, Advocate for the Applicant.

Mr.H.J. Dedhia, APP for the Respondent - State.

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CORAM : PRAKASH D. NAIK, J.

DATED : DECEMBER 20, 2019.

P.C. :

This is an application for bail. The applicant is arrested in connection with C.R.No.161 of 2018, registered with Yerwada Police, District-Pune, for the offences punishable under Sections 302, 323 and 504 of Indian Penal Code ("IPC", for short).

2 The case of the prosecution is that the applicant is second wife of Sunil Rathod. The deceased was the first wife. The deceased was residing with the complainant for three to four years after quarrel with Sunil Rathod. The complaint is lodged by sister of the deceased. The husband of the applicant came to live

in the same vicinity where the deceased was residing. Children of the deceased used to visit the house of the applicant. The relationship between the applicant and the deceased was strained. On 6th March, 2018, around 8:00 p.m. the applicant has allegedly assaulted the deceased. On the day of incident, there was quarrel between the deceased and the applicant. At that time, applicant dragged the victim through the lane and dashed her head on iron pole, and, thereafter, on the wall in the lane. The victim was abused. She sustained injuries and subsequently succumbed to the injuries.

3 Learned counsel for the applicant submitted that the applicant is lady having no criminal antecedents. She is in custody from the date of arrest. Investigation is completed and charge-sheet is filed. The offence had occurred suddenly and it was not premeditated. Son of the applicant is disabled. The disability certificate issued by Sasoon General Hospital, Pune, has been annexed. The age of the applicant's son is eight years. Learned APP submitted that the manner in which the victim was dragged by the applicant and her head was dashed indicate that there was an intention to kill. In the event, the applicant is granted bail, there is danger to the witness/complainant.

4 The victim and the applicant were not on good terms. Deceased was the other wife of the applicant's husband. The incident had occurred at spur of moment. No weapon was used. In fit of anger, the deceased was dragged by the applicant and dashed on the iron pole and wall. It is not the stage to evaluate the applicability of offence and give the finding that the offence is under Section 302 or 304 (II). However, considering the factual matrix and also taking into consideration that the applicant is a lady and she is in custody from the date of arrest, she has a minor handicapped child, bail can be granted on terms and conditions.

5 Hence, I pass the following order:

:: O R D E R ::

- (i) Bail Application No.1227 of 2019, is allowed;
- (ii) Applicant is directed to be released on bail in connection with C.R.No.161 of 2018, registered with Yerawada Police, District-Pune, on her executing P.R. Bond in the sum of Rs.20,000/-, with one or more sureties in the like amount;

- (iii) Applicant shall not stay within the jurisdiction of Yerwada Police Station, Pune. The applicant shall furnish details of her address to the investigating officer, after she is released on bail;
- (iv) Bail Application No.1227 of 2019, is disposed of.

(PRAKASH D. NAIK, J.)