

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

BAIL APPLICATION NO.02 OF 2021

Savita @ Manisha Ramesh Jadhav ...Applicant

Versus

The State of Maharashtra ...Respondent

...
Mr. S.J. Salunke, Advocate for the applicant.
Mrs. D.S. Jape, APP for the respondent-State.
...

**CORAM : SMT. VIBHA KANKANWADI, J.
RESERVED ON : 03rd FEBRUARY, 2021
PRONOUNCED ON : 15th FEBRUARY, 2021**

ORDER:-

1. The applicant has been arrested on 08.11.2020 in connection with Crime No.516 of 2020 dated 03.11.2020 registered with Kadim Police Station, District Jalna for the offence punishable under Sections 302 read with Section 34 of the Indian Penal Code. she has therefore filed the present application for bail under Section 439 of the Code of Criminal Procedure.

2. Heard learned Advocate Mr. S.J. Salunke for the applicant and learned APP Mrs. Jape for the respondent-State.

3. It has been vehemently submitted on behalf of the applicant that the allegations in the FIR are vague and mainly against co-accused Munawar @ Manwar Yusuf Shaikh. It would show that the applicant was not even present at the spot nor she had played any active role. Since last three months prior

to the FIR, the applicant was acquainted with co-accused but there was nothing between them. She is a married woman and she is in jail with her daughter. The custodial interrogation is not even required. Only on the ground of suspicion, she has been implicated. She, therefore, deserves to be released on bail.

4. Per contra, the learned APP strongly opposed the application and submitted that the present applicant is the cause for accused no.1 to commit offence. There are illicit relations between the present applicant with accused no.1, which were obviously not approved by the deceased, who is the wife of accused no.1. There are statements of the witnesses stating about the relationship between accused no.1 and the present applicant. Accused no.1 had kept the photograph of the applicant on display picture (D.P.) of his whatsapp thereafter, there was quarrel between the wife i.e. deceased Shama Parvin and the present applicant. Accused no.1 wanted to eliminate the deceased and therefore, he had kept kerosene can in his house. Further the statement of son of accused no.1 would show that he was present when accused no.1 had put deceased to fire by pouring kerosene. The investigation is still pending and therefore, the application be rejected.

5. At the outset, it can be seen that the informant is the father of deceased Shama Parvin. Shama Parvin got

married to accused no.1 about 10 years prior to the FIR. He was a truck driver and was addicted to liquor. They have son aged 7 years. It appears that accused no.1 used to harass his wife under the influence of liquor. The informant was not present when the incident took place nor it appears that he had met deceased in the recent past of the FIR, so that he could understand about the reason behind the alleged act by accused no.1. The FIR has been lodged only against accused no.1. It appears that thereafter, after taking into consideration the statements of the witnesses, name of the present applicant is stated to be included, however, the statements of witnesses recorded upto now (from the papers those have been made available by the learned APP) would show that there was no active role assigned to the present applicant. Whatever evidence is collected in respect of the relationship between accused no.1 and 2 can be said to be, to prove the motive but as on today, there is no prima facie evidence to show the common intention. Therefore, keeping her in custody further may amount to conviction before the trial and therefore, her application deserves to be allowed.

6. Another fact to be noted is that, the applicant had not given a proper address in the beginning in her bail application, thereafter, she has given the correct address. An affidavit has also been filed by one Anil Dayaram Pawar stating that the present applicant had taken his flat on rent in

November-2020. He has produced the documents regarding the flat. When doubt arose, the police were directed to verify regarding the address and it has been gathered by the police that the present applicant keeps on changing her address. However, when now said Anil Dayaram Pawar has given the affidavit and it is stated that before the rent agreement could be entered into, the applicant was arrested, under such circumstance, the bail is required to be accepted only after the assurance is given, that the applicant will not go on changing her addresses and would be available till the end of trial at a particular place and if at all there would be such circumstance which require her to change the address, then she would communicate the change of address with all the necessary documents before the trial Court and the police. Therefore, with this specific condition, the application deserves to be allowed. Hence, the following order is passed:

ORDER

- I) The application stands allowed.
- II) The applicant viz. Savita @ Manisha Ramesh Jadhav arrested in connection with Crime No.516 of 2020 registered with Kadim Police Station, District Jalna dated 03.11.2020 for the offence punishable under Sections 302 read with Section 34 of the Indian Penal Code, be released on P.R. of Rs. 30,000/- (thirty thousand) with two solvent sureties of Rs.15,000/- (fifteen thousand) each.

- III) The applicant shall not tamper with the evidence of the prosecution in any manner.
- IV) The applicant shall co-operate with the investigation and remain present before the Investigating Officer, as and when called.
- V) The Investigating Officer to call the applicant in day time, that too after giving prior notice of 48 hours.
- VI) The applicant shall not change her address i.e. residential address frequently and change, if any, in inevitable circumstances to be communicated to the trial Judge as well as to the police.
- VII) The applicant to comply the requirements under Para 12 (1) to (6) of Chapter-I of Criminal Manual before the trial Court (whichever are applicable).
- VIII) The applicant shall not indulge in any criminal activity.
- IX) Bail before the trial Court.

(SMT. VIBHA KANKANWADI, J.)