

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.245 OF 2021

WITH

CRIMINAL APPLICATION NO.706 OF 2021

SONALI SHARAD TAKE

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. V.R. Langhe, Advocate for the applicant

Mr. S.B. Narwade, APP for the respondent

Mr. N.N. Bhagwat, Advocate for assist to APP

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CORAM : SMT. VIBHA KANKANWADI, J.

RESERVED ON : 09th APRIL, 2021

PRONOUNCED ON : 27th APRIL, 2021.

ORDER :

1 Criminal Application No.706 of 2021 is moved for assist to APP is allowed and disposed of.

2 Present applicant came to be arrested in Crime No.652/2019 registered with Newasa Police Station, Dist. Ahmednagar, for the offence punishable under Section 302, 307, 341, 201, 324, 323, 504, 506 read with Section 34 of the Indian Penal Code, 1860. Present application has been filed

under Section 439 of the Code of Criminal Procedure, 1973.

3 Heard learned Advocate Mr. V.R. Langhe for the applicant and learned APP Mr. S.B. Narwade, well assisted by learned Advocate Mr. N.N. Bhagwat, for the respondent.

4 It has been vehemently submitted by learned Advocate for the applicant that the investigation is over and charge sheet has been filed. The applicant was arrested on 03.10.2019. As per the prosecution story, deceased Sambhaji and father-in-law of present applicant, who is co-accused in the matter – Shivaji, are the real brothers. There was long standing enmity between them. There were civil disputes in respect of agricultural land pending before various authorities. It has been contended in the FIR which is lodged by Ravindra Shankar Gosavi that he was called around 9.00 a.m. on 02.10.2019 by Sambhaji Rajaram Take. Sambhaji offered to show his land to informant, and therefore, informant went along with Sambhaji, who had come to pick him up around 10.00 a.m. They were proceeding towards Jeur Haibati. When they were near Shendi bypass, at that time, one Ashok Vishnu Shinde met them, who had his own four wheeler, and therefore, Sambhaji parked his two wheeler there and informant, Sambhaji and said Ashok Shinde went to Newasa phata in the car of Ashok Shinde. One more person met them at that place and he also accompanied them in the said car till Jeur

Haibati. At Jeur Haibati all of them alighted and Sambhaji started taking them towards the field. They found Shivaji Rajaram Take holding axe in his hand in the road. He started dispute with Sambhaji. However, thereafter after pacifying them when those four persons started going towards vehicle, Shivaji was following them with axe. In the meantime, the present applicant, who is the daughter-in-law of Shivaji came running towards them. She was holding axe and the wife of Shivaji was holding chilly powder in her hand. It is then stated that present applicant threw chilly powder on Sambhaji. But informant and others occupied the car and were about to move the car, at that time, Sharad Shivaji Take i.e. husband of present applicant came on motorcycle and intercepted the road of the informant. He was holding wooden log. Informant requested him to allow them to go, as everything has been settled. But at that time Sharad told that they should hand over Sambhaji to them, as he wants to kill him. He asked informant to move and gave threat that if he does not move then he would also be killed. Thereafter Sharad gave blow, which was stopped by the informant, but in that process he had sustained injury to his head. He went running towards road and in the meantime he heard voice of Shinde. Informant saw backward and could see that Sharad had assaulted Shinde by axe. It had cut his left ear and thereby causing bleeding injury. One Kuldeep Deshmukh had left the informant to Ahmednagar. He was then admitted to Nobel Hospital.

Thereafter, he lodged the report stating that in the assaults given by the accused persons Sambhaji Rajaram Take and one Santosh Sundarrao Ghune had expired.

5 The learned Advocate for the applicant submitted after giving the entire contents of the FIR that the allegations against the applicant that she was holding an axe, but he does not say that she had given blow to anybody. But then it is stated that she had thrown chilly powder. The mother-in-law of the present applicant Manda Shivaji Take has been released by this Court on bail on 10.12.2020 vide Bail Application No.1354 of 2020, and therefore, on the ground of parity also she deserves to be released on bail. There is no criminal history of the applicant. All the family members are in jail. The applicant is ready to abide by the terms of the bail. There is nobody to look after the child of the present applicant.

6 The learned APP strongly resisted the applicant stating that there is ample material on record in the form of statements of witnesses and the discovery by the co-accused, which would show that the present applicant had provided the weapon to the co-accused, who had then used it in committing the double murder. In fact, there was no connection with said Santosh Ghune with the family of the applicant or he had no enmity with the present applicant or her family members; yet he has been murdered. Serious

offence has been committed, and therefore, she does not deserve any kind of sympathy.

7 Since the contents of the FIR have already been taken note of, they are not reproduced here. The role attributed to the applicant in the FIR as well as the statements of the eye witnesses is to the extent of throwing chilly powder. No doubt, it is also stated that she had come with axe and gave that axe to Sharad Take i.e. her husband and then it is stated that Sharad had assaulted the deceased persons with axe. The discovery is by her father-in-law as well as husband. Therefore, taking into consideration the said act attributed to the present applicant and the fact that she has not assaulted the deceased persons with the axe, she being lady and having child to look after, it would take longer time to stand the trial and the co-accused has been released on bail, she deserves to be released on bail, though the Post Mortem Reports would definitely show a brutal murder. Hence, following order.

ORDER

1 Application stands allowed.

2 Applicant Sonali Sharad Take, who has been arrested in connection with Crime No.652/2019 registered with Newasa Police Station, Dist. Ahmednagar, for the offence punishable under Section 302, 307, 341,

201, 324, 323, 504, 506 read with Section 34 of the Indian Penal Code, 1860, be released on P.R. of Rs.25,000/- (Rupees Twenty Five Thousand only) with one solvent surety of the like amount.

3 The applicant shall not tamper with the evidence of the prosecution, in any manner.

4 She shall not indulge in any criminal activity.

5 Bail before Trial Court.

6 Criminal Application No.706 of 2021 stands disposed of.

(Smt. Vibha Kankanwadi, J.)

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