

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

BAIL APPLICATION NO. 436 OF 2021

Mrudika w/o Mahesh Khoje	... Applicant
Versus	
The State of Maharashtra	... Respondent

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Mr. P P More, Advocate for the applicant
Mr. P N. Kutti, APP for the respondent-State

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CORAM : R. G. AVACHAT, J.

**RESERVED ON : 28th MAY, 2021
PRONOUNCED ON : 03rd JUNE, 2021**

ORDER :-

. This is an application for bail under Section 439 of the Code of Criminal Procedure. The applicant has been arrested in connection with Crime No. 491/2020, registered with Gondli Police Station, District Jalna, for the offence punishable under Sections 302, 201 read with 34 of the Indian Penal Code.

2. Heard. Perused the First Information Report (FIR) and the relevant police papers.

The FIR has been lodged by the sister of the deceased Mahesh. What can be gathered from the FIR is as under:-

The applicant is the widow of deceased Mahesh. The informant is the sister of the deceased. She has two more sisters. Accused No.1 – Akash is the step brother of the deceased, informant and her two other sisters. Their father passed away about 8 - 10 months ago. The father owned 10 Acres of agricultural land. On his retirement, the father had received a sum of Rs.10,00,000/- (Rupees Ten Lakh) as service benefits. Rs.5,00,000/- (Rupees Five Lakh) were spent for his medical treatment. The deceased Mahesh was suffering from epilepsy. He was mentally challenged, as well. The amount in the father's bank account was given by the sisters to the accused No.1. Deceased Mahesh had a grievance over having not been paid any amount. Those, therefore, used to be frequent quarreled between two brothers. The wife of Akash – Sheetal is the real sister of the applicant. On the fateful day, co-accused Akash had told the informant on phone, "finished" and then, he discontinued the phone call. The informant's uncle Bhanudas told the informant about the death of Mahesh. The informant and his sisters, therefore, came home to find the deceased to have suffered head injury. They were falsely informed that the deceased suffered head injury due to fall. The informant noticed the injury to the right wrist of the deceased and ligature mark on his neck. She, therefore, lodged the FIR

alleging the applicant, her sister and Akash to have murdered Mahesh.

3. Shri P. P. More, learned Advocate for the applicant took me through the relevant police papers and medical papers of the deceased, as well. According to him, the investigation has been over. The charge-sheet is filed. The applicant is the mother of two minor children. There is no direct evidence implicating her in the alleged offence. He, therefore, urged for grant of the application.

4. The learned APP would on the other hand, submit that the offence is serious one. The applicant has filed the false report of accidental death of her husband. The death certificate indicates the cause of death is strangulation associated with head injury. The learned APP took me through the relevant statements of the witnesses to suggest the applicant to have not been on good terms with her deceased husband. She had intended to eliminate him.

5. The investigation has been over. The charge-sheet is filed. The summary of the investigation, submitted by the investigating officer on page 1 of the charge-sheet, is that the accused No.1 - Akash assaulted the deceased with a crowbar. Then,

he strangled the deceased with a odhani/dupatta of the applicant. The applicant allegedly gave a false report of the incident with a view to cause disappearance of evidence.

6. The deceased and accused Akash were step brothers. Their wives are real sisters. The deceased was epileptic patient. He was mentally retarded, as well. There used to be frequent quarrel and fight, as well, between two brothers over. The accused Akash having been paid entire money of their father. The cause of death certificate indicates the deceased died of strangulation associated with head injury. At the scene of offence, it was noticed that the spot was washed with a view to wash out blood stains. There is a statement of eye witness Raghunath Khoje. He witnessed both the brothers to have been fighting with each other. The applicant was seen abusing her husband. The applicant was heard to say that the deceased must die. There is no use of his living. The witness claimed to have seen co-accused Akash assaulted the deceased on his head with crowbar. The deceased was then taken in the house by the applicant, her sister and Akash. There is disclosure statement made by co-accused Akash, pursuant to which, the dupatta, with which the deceased was allegedly strangled, came to be recovered. As such,

there is no direct evidence indicating the applicant to have assaulted the deceased husband with a view to eliminate him.

7. True, the applicant has lodged a false report of the alleged incident. Considering the aforesaid nature of evidence and material against the applicant coupled with the fact that she being mother of two minor children, I am inclined to grant her bail. Hence, following order:-

ORDER

- (i) The bail application is allowed.
- (ii) The applicant shall be released on bail in connection with Crime No. 491/2020, registered with Gondi Police Station, District Jalna, for the offence punishable under Sections 302, 201 read with 34 of the Indian Penal Code, on her executing P. R. bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with surety in the like amount.
- (iii) The applicant shall not tamper with the prosecution evidence.

[R. G. AVACHAT, J.]