

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
BAIL APPLICATION NO.656 OF 2021

SHOBHABAI W/O. SANJAY KALE
VERSUS
THE STATE OF MAHARASHTRA

...

Advocate for Applicant : Mr. Swapnil S. rathi
APP for Respondents: Mr. N.T. Bhagat.

CORAM : V.G. BISHT, J.

ORDER RESERVED ON : 12th August.2021
ORDER PRONOUNCED ON :

ORDER:

1] This application has been filed by the applicant under Section 439 of the Cr.P.C. to enlarge her on bail in connection with Crime No. 471/2020 registered with Police Station, Hingoli City, Dist. Hingoli for the offences under Section 302, 120(B), 143, 147, 148, 149, 341, 201 of IPC and under Section 4/25 of Indian Arms Act and under Section 135 of the Maharashtra Police Act.

2] On 15.10.2020, at about 8.45 p.m., on account of earlier dispute, informant's husband, namely, Sunil Ganesh Chavan (since deceased) was called out of the house by accused Ajesh @ Ajay Bansi Chavan, Rhutik Bharat Chavan, Arjun Baban Kale, Rajul Sanjay Kale, Sunil Punjaji Chavan. According to prosecution, all these accused were armed with sword, Khanjir, Gupti, iron pipe and stone. It is further alleged that they assaulted the deceased and killed him. It is further alleged that accused Sachin Pawar had caught hold of the hands of the deceased husband of informant from behind and when she tried to intervene, accused Shivani, Pinki and Shobhatai Kale (Present applicant)

started beating her by means of fist and kick blows.

3] Mr. Rathi, learned counsel for the applicant, submits that the present applicant had not done anything to contribute the death of the husband of informant. There was no specific overt act on her part. As far as alleged beating of informant by fist and kick blows is concerned, learned counsel invited my attention to the Injury Certificate which shows that the informant had sustained only simple injuries. Therefore, at the most, role of present applicant is covered by Section 323 of IPC. The applicant being a woman and since no purpose would be served if the applicant is allowed to remain in jail, the applicant be released on bail, urged learned counsel.

4] Per contra, Mr. Bhagat, learned APP, opposed the submissions by contending that all the accused not only formed an unlawful assembly in prosecution of their common object, but also committed murder of the deceased. In such circumstances, the application should not be allowed, argued learned APP.

5] As far as the role of present applicant in the alleged incident is concerned, it is clear from the FIR that she, alongwith Shivani Chavan and Pinki Chavan had beaten the informant by means of fist and kick blows. I have also gone through the statements of prosecution witnesses and all the family members of the informant, namely, Prayagbai Ganesh Chavan – mother of deceased, Nirmala Sundar Pawar, cousin of informant and Anil Ganesh Chavan, brother of deceased, have clearly stated that the role of the present applicant i.e. applicant had indulged in beating the informant by fist and kick blows.

4] I have also gone through the Medico-Legal Certificate (Injury Certificate) pertaining to the informant. It shows the abrasion on the right lateral neck. The nature of injury was found to be simple.

5] As far as death of deceased is concerned, the Post Mortem report shows homicidal death. The post-mortem report noted 9 injuries, surface injuries and internal injuries and the probable cause of death was hemorrhagic shock due to multiple stab injuries and injury to spleen. If the statements of witnesses and the FIR are read in proper perspective, then it would be clear that those injuries were authored by other accused and not by the present applicant.

6] Having regard to the above facts and circumstances, I hold that the present application is entitled to be released on bail. Hence, the following order.

: O R D E R :

[a] The application is allowed.

[b] The applicant be released on bail in connection with Crime No.471 of 2021 registered at Police Station, Hingoli City, Hingoli on her executing PR bond in the sum of Rs. 20,000/- and on furnishing one or more sureties in the like amount, on the following conditions :-

[i] She shall not tamper with the evidence or influence the witnesses and shall not indulge in any criminal activity.

[ii] Bail before trial court.

**[V.G. BISHT]
JUDGE.**

grt/-