

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

BAIL APPLICATION NO.1180 OF 2020

Jyoti w/o Yallapa Degloorkar ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. R.S. Deshmukh, Senior Counsel i/b Mr. D.R. Deshmukh,
Advocate for the applicant.
Mr. A.M. Phule, APP for the respondent-State.

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**CORAM : SMT. VIBHA KANKANWADI, J.
DATED : 19th JANUARY, 2021**

ORDER:-

1. Present applicant has been arrested in connection with Crime No.82 of 2020 dated 19.02.2020 registered with Degloor Police Station, Taluka Degloor, District Nanded, for the offence punishable under Sections 302, 201 of the Indian Penal Code and therefore, she has filed the present application for bail under Section 439 of the Code of Criminal Procedure.

2. Heard learned senior counsel Mr. R.S. Deshmukh instructed by learned counsel Mr. D.R. Deshmukh for the applicant and the learned APP Mr. A.M. Phule for the respondent-State.

3. It has been vehemently submitted by the learned senior counsel that deceased was the husband of the applicant. They got married on 06.02.2006. After taking this Court through the FIR lodged by the father of the deceased,

learned senior counsel would submit that the first informant was not the eye witness to the incident and it appears that he has filed the FIR on the basis of suspicion. Now, the investigation is over and the charge sheet has been filed which is already been committed to the Court of Sessions and which has been numbered as Sessions Case No.41 of 2020. Statement of both the sons of the applicant would show that the deceased was in a habit of drinking liquor. They also said that there use to be quarrels between the parents, however, it appears that the elder son of the applicant resides at Nawandi, Taluka Udgir, District Latur and he stays in hostel there. He was not present but then he says that he has received the phone call from his father stating that he remembers him and he should come to meet him. However, he could hear quarrel between the parents on phone which had taken place at about 11.00 pm on 18.02.2020. The younger son was with the applicant and then he states that he was woke up by mother and mother was in a frightened condition. On the say of mother, they went out of the house and then went to the paternal uncle viz. Ashok Gangadhar Degloorkar of the deceased and at that place, they received phone call from the neighbour stating that something is burning in their house. At the same time, it is required to be seen as to what the paternal uncle of the deceased has stated. Witness Ashok Gangaram Degloorkar is the uncle of the deceased and then he says that

he received a phone call at about 04.58 am on 19.02.2020 from the applicant. She told that she has come outside his house and he should open the gate. Thereafter, he went and open the gate of the apartment. He saw that the applicant had come along with her younger son. He found the applicant in frightened condition. It was told by the applicant that her husband i.e. deceased Yallappa had given threat that he would commit suicide by setting him to fire and as she was frightened, she came to his house. After keeping the younger son of the applicant in his house, the uncle of the present applicant went towards the house of the applicant and at that time, the applicant received phone call from neighbouring lady stating that, they could see smoke coming out of her house. They went to the house and found the door was open and deceased had received burn injuries and had expired there. With this collected evidence, the prosecution has arrested the applicant and the post-mortem report shows that the deceased had received 100% burn injuries and the provisional cause of death is "cardiopulmonary arrest due to asphyxia, viscera preserved final opinion reserved". There is no direct evidence against the present applicant. There might be certain differences between the applicant and the deceased, however, that does not mean that she would have committed the murder of her husband. Now, there is nobody else to look after the children and, therefore, the learned senior counsel

canvassed for releasing the applicant on bail.

4. Per contra, the learned APP strongly opposed the application and submitted that there is ample evidence against the present applicant. It can be seen from the statement of the younger son, who was accompanying the applicant as well as the statement of uncle that, till the applicant had left alone with the son from her house, she was with the husband. The younger son says that there was quarrel between the parents at night time and thereafter, they went to sleep. Though the informant was not present on the date when the incident took place, but he had the knowledge about the disputes between his son and daughter-in-law and he has given all details of those disputes in the FIR. The behaviour of the deceased might not be acceptable to the applicant, yet, she cannot take away his life in such a manner. Perusal of the spot panchnama, inquest panchnama and the post-mortem report would show that the deceased has received 100% burn injuries. The statement of younger son, who was along with the applicant would show that when he woke up, he found his mother sitting on cot and father was lying on the ground near the cot on quilt. He found his mother in a frightened condition and she told him that they should go out and thereafter she took him out and asked him to wait till she brings her chappals. Therefore, he was waiting for his mother near the road. He further states that his mother came after a while running and

thereafter, he could see red flames in his house and his mother was frightened. She had fallen down because of which she had sustained injury to her knee, fingers of the hands and waist. He and mother were sitting on a rest platform in front of Durga Mata Mandir for a considerable time and thereafter, they went to paternal uncle's house of the deceased. Witness Ashok has also told that he found the applicant in frightened condition, therefore, the evidence which has been collected is sufficient to disentitle the applicant from releasing on bail.

5. At the outset, it can be seen that since the investigation is complete and even the case is committed to the Court of Sessions, further physical custody of the applicant is not required for the purpose of investigation. Now the evidence that is collected against the applicant is required to be considered for her present application for releasing her on bail. The FIR is by the father of the deceased and he has stated about the disputes between deceased and the applicant. It will not be out of place to mention at this stage that deceased has expired in the house in which the applicant and their son were residing. The death has occurred at the night time and therefore, nobody else could have arrived or was there in the house. Prior to the FIR, it appears that the present applicant herself had lodged A.D. in which she has stated that on the earlier night, the husband was harassing her and assaulted her. Therefore, at about 04.00 am on

19.02.2020, she went along with her son to the father in law's place and then she received the phone call from the neighbouring lady. She has stated in her A.D. that her husband has committed suicide by setting himself to fire under the influence of liquor. If we perused the post-mortem report, specially the contents of the stomach, then that does not give any indication about the consumption of liquor. Further, the statement of the younger son of the applicant which has been reproduced above, would show prima facie case against the applicant. He has stated about fall of the applicant and injury to her, which is then supported by the medical certificate of the applicant, which shows about two abrasions, one on left knee and another on left hand. The son had seen flames coming out of the house when the applicant had gone inside the house under the pretext of bringing her chappals. Taking into consideration the evidence which is against the present applicant, she is not entitled to be released on bail though the investigation is complete and case is committed to the Court of Sessions. Hence, the application stands rejected. The concerned trial Court may also consider that being the lady, some preference can be given to her trial.

(SMT. VIBHA KANKANWADI, J.)