

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 328 OF 2021

Ursula Yesu Dhas

.... Applicant

Versus

The State of Maharashtra

.... Respondent

Mr. Aniket Vagal, for the applicant.

Smt. A.A. Takalkar APP for the State/Respondent.

**CORAM : SARANG V. KOTWAL, J.
DATE : 3rd MARCH, 2021**

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.957 of 2019 registered at Nigadi Police Station, District Pune on 29/10/2019, under sections 302,120-B, 184 r/w Section 34 of the Indian Penal Code, under Section 4 and 25 of the Indian Arms Act and under section 37 and 135 of the Maharashtra Police Act. The applicant was arrested on 30/10/2019 and since then she is in custody.

2. Heard Mr. Aniket Vagal, learned Counsel for the applicant and Smt. A.A. Takalkar, learned APP for the State.

3. The FIR was lodged by the applicant herself in respect of murder of her husband Yeshudas. She had stated in her FIR that she was married with the deceased about 13 years prior to the incident and they had two children. Since past three years, she was staying separately from her husband at Dehu Road and her husband was residing at Akurdi. The applicant used to meet him off and on. He was addicted to liquor. On 29/10/2019, at about 12.30 p.m. she was informed by the daughter of the house owner that her husband was assaulted by somebody and he was lying in pool of blood in the room. The informant went there and saw that the deceased was lying injured there. The informant informed about the same to the police. Police came there and took him to the hospital but he was declared dead. Thereafter this FIR is lodged.

4. The investigation proceeded and prosecution came up with the case that the applicant herself conspired with other accused namely Lakhan Kapre, Rajjak Shaikh and Bhaurao Are to commit murder of the deceased as he was constantly harassing her by suspecting her character. The deceased was assaulted with sickle. The other accused were contract killers who were given money by the applicant.

5. Learned Counsel for the applicant submitted that there is absolutely no incriminating material against the present applicant in the entire charge-sheet. The motive attributed to her is weak. The co-accused Bhaurao Are is granted bail by this Court (Coram: Bharati Dangre J.) vide order dated 16/10/2020, passed in Criminal Bail Application Stamp No. 2305 of 2020. He submitted that first of all there is nothing to show that the applicant had hired accused Nos. 1 and 2 for commission of murder of her husband and secondly even against other two accused there is hardly any incriminating

material in the entire charge-sheet.

6. Learned APP opposed this application. She relied on the statement of Yogesh Kalbhor and Sanjay Koli who were owner and waiter of the Swapna Upahar hotel where the applicant and co-accused Bhaurao Are used to visit regularly for having snacks. She also relied on the statement of the owner of the room where murder was committed. Owner Mehboobi Shaikh has stated that the applicant had paid rent and advance amount and permitted her husband to reside in that room. Learned APP submitted that the applicant had thus arranged for stay of husband in that particular place to commit murder.

7. I have considered these submissions. In the entire charge-sheet there is hardly any incriminating circumstances against the present applicant. The motive attributed to the present applicant is not supported by the statement of any of the witnesses. Thus there is no

material to show about existence of motive.

8. Similarly there is nothing to show that the applicant had hired other accused to commit murder of her husband. As rightly submitted by the learned counsel for the applicant co-accused Bhaurao Are is granted bail. The allegations are that the applicant and Bhaurao Are used to meet often. But it was held to be an innocuous circumstance. Therefore her association with Bhaurao Are does not take prosecution case any further against the present applicant as well.

9. The FIR itself was lodged by the present applicant and if she is really innocent then her conduct was in consonance with the conduct which a normal person would have adopted. There is nothing wrong in her lodging FIR immediately. At this stage, it is difficult to observe that it was a false information because there is no material against her to show her involvement in the crime. In this view of the matter, the applicant deserves

to be released on bail.

10. Hence the following order.

ORDER

- (i) In connection with C.R. No.957 of 2019 registered with Nigadi Police Station, Pune, the Applicant is directed to be released on bail on her furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)