

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

**CRIMINAL BAIL APPLICATION NO. 275 OF 2021**

Poonam Dnyanoba @ Govind @ Balu Gole .... Applicant

Versus

The State of Maharashtra .... Respondent

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Mr. A.P. Mundargi, Senior Advocate i/b Mr. Rohan Hogle, for the applicant.

Mr. Ajay Patil, APP for the State/Respondent.

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**CORAM : SARANG V. KOTWAL, J.**

**DATE : 1<sup>st</sup> APRIL, 2021**

**P.C. :**

1. The applicant is seeking her release on bail in connection with C.R.No.395 of 2020 registered at Paud Police Station, Pune Rural , on 16/07/2020, under sections 302, 143, 147, 148, 149, 323 and 452 of the Indian Penal Code. The applicant was arrested on 16/07/2020 and since then she is in custody. The investigation is over and the charge-sheet is filed.

2. Heard Mr. Mundargi, learned Senior counsel for the

applicant and Mr. Ajay Patil , learned APP for the State.

3. The prosecution case is that the deceased Sanjay Gole was mentally disturbed and he was continuously causing nuisance to the present applicant, her family members and other villagers. On 15/07/2020, some such incident took place in the evening and thereafter in the night the applicant and other accused namely Shubham who is the applicant's son, Shantanu who is her nephew and other two accused went to the house of Sanjay Gole and assaulted Sanjay with sticks, cement blocks and stones etc. The deceased succumbed to his injuries during the night. On the next day the parents of the deceased called their son-in-law i.e. brother in law of the deceased Sanjay who then lodged the FIR.

4. The applicant was arrested. The investigation was carried out and the charge-sheet is filed.

5. Shri Mundargi, learned Senior Counsel for the applicant submitted that in the past, there were many complaints

lodged by the present applicant against the deceased which shows that the deceased was causing nuisance and constant harassment to the present applicant. It is submitted that in this background, if the incident is seen, the deceased has suffered majority of injuries on his limbs. Therefore at the highest common object or intention of the offenders could be to cause grievous injury but not to commit his murder. He further submitted that in any case role ascribed to the present applicant is very minor. It is alleged that the incident had taken place in two parts. In the first part, role is ascribed to the present applicant that she had held the mother of the deceased and did not allow her to go for rescue of her son Sanjay. In the second part, when the others are entered the house, the applicant's name is not mentioned. He, therefore submitted that lesser role is attributed to the present applicant. She should be granted bail.

6. Learned APP opposed this application. He submitted that the parents of the deceased were old and therefore they could not seek immediate help. He further submitted that inspite of the

nuisance caused by the deceased, that could not be the ground for commission of the murder. He submitted that there are two eye witnesses and their statements should not be ignored.

7. I have considered these submissions. With the assistance of both learned Counsel, I have perused the entire charge-sheet. The main evidence in this case is about statements of two witnesses namely Shakuntala and Arvind who were parents of the deceased . They have consistently stated that, late in the evening, there was quarrel between the deceased Sanjay on one hand and the applicant and her son Shubham on the other. In the night when they were sleeping in the house, the applicant, her son Shubham, nephew Shantanu and other two entered the house. Shubham and Shantanu were having sticks. They dragged Sanjay outside the house and assaulted him with sticks. The other two picked up cement blocks and stones and assaulted the deceased. When Shakuntala was trying to intervene to save her son, the applicant beat her and held her. At that time, Shubham gave a blow of stick on her thigh. Arvind was given a blow with stick by

Shantanu. After that, all the assailants went away from the spot. Shakuntala and Arvind then brought Sanjay in the house. At that time, Shubham, Shantanu and two others again entered their house and again Sanjay was assaulted with sticks on his back, face and legs. According to this witness they sought help from neighbours but they did not come to their help. Sanjay was made to sleep in the house. These two witnesses slept in the night. In the morning, Arvind noticed that Sanjay was in a serious state. There was bleeding from his mouth. Arvind then took a mobile phone of a passerby and called his son-in-law Yogesh. Yogesh came there and then informed the police.

8. Post mortem notes show that the deceased had suffered 11 injuries which included fracture of right leg and left hand. There was one injury on his forehead. Other injuries were on the chest and abdomen . Cause of death was given as “shock due to head injury with multiple fracture”.

9. Considering this evidence it is apparent that, there was

some serious enmity between the applicant's family and the deceased Sanjay. However, the question is whether the applicant had played any major role in this incident and as to whether common object of their assembly was to commit murder of the deceased. Of course, this issue will have to be decided during the trial. However, at this stage few facts need to be taken into consideration. They are as follows:-

The incident had taken place in two parts. The applicant's presence and role is mentioned only in the first part of the incident when the deceased was assaulted outside his house. After that, all the assailants had gone away. Deceased Sanjay was taken inside the house. At that time, Shubham, Shantanu and two others came back. At that time applicant's name is not mentioned as one of the persons who had returned to assault the deceased.

Secondly, in the first part of the incident also applicant has not ascribed any major role. She is alleged to have beaten mother of the deceased and had prevented her from intervening in the assault. Similarly it is important to note that the applicant had not carried any weapon. All these facts considered together show

that perhaps the applicant did not share any common object with others to cause death of the deceased. Even the parents of the deceased had not realised that the injuries were serious. They had slept through the night. Sanjay was also sleeping in the house. The applicant was not present in the second part of incident when Sanjay was beaten again. The applicant is a lady. She is in custody since 16/07/2020. The investigation is over. Therefore the applicant can be granted bail.

10. Hence the following order.

**ORDER**

- (i) In connection with C.R. No. 395 of 2020, registered with Paud Police Station, Pune Rural, 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) The application stands disposed of accordingly.

**(SARANG V. KOTWAL, J.)**