

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.884 OF 2021**

Sampubai Gabrya Bhosale .. Applicant

Vs.

The State of Maharashtra .. Respondent

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Mr. Kuldeep U. Nikam for the Applicant.

Ms. A.A. Takalkar, A.P.P. for the State.

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CORAM : SMT. BHARATI DANGRE, J.

DATED : 07TH JULY, 2021.

P.C:-

1. The incident dated 22/12/2019 reported by one Chayya Pawar resulted in registration of FIR No.402 of 2019 with Lonand Police Station, Satara, invoking Sections 302, 143, 147, 148 and 149 of the IPC.

2. The complaint states that at 2.00, in the afternoon on the said date, the nephew of the Complainant and his wife Sampubai Bhosale (present Applicant) visited their hamlet on motorcycle and, scouted around. At 6.00 p.m., when the Complainant was

present in her house, deceased Namnya Pawar and Aashabai Bhosale were chitchatting with one Ramesh Bhosale and Rajiya Bhosale, one white coloured four wheeler stopped near the hamlet and from the said vehicle, Accused No.1 Gabrya Bhosale, husband of the present Applicant, Arun Pawar and the present Applicant along with other co-accused, alighted. It is alleged that Gabrya Bhosale was armed with a long spear and assaulted Aashabai on her neck by uttering that he was being falsely implicated in a theft case. When Namnya Pawar attempted to intervene, he was also assaulted by the same weapon by Accused No.1 and, after the assault, all the persons, got into the car and left the spot. Both the injured were immediately taken to the hospital, where they succumbed to their injuries.

3. The said complaint highlights to the gist of the allegations and attribute roles to the occupants of the car. Apart from Accused No.1, who had assaulted the two deceased by a spear, it is alleged that the other persons, including the present Applicant, had assaulted the deceased, by fist and blows.

4. The Complainant's statement is also recorded under Section 164 of the Cr.P.C. on 03/01/2020, where the version is that Aashabai Bhosale, who succumbed to the injuries, was stabbed by Accused No.1, by means of spear and the other deceased Namanya Pawar, who was on the spot and, who attempted to intervene, was also assaulted by means of same

spear in her stomach. The statements of other witnesses Ramesh Bhosale and Rajiya Bhosale, recorded under Section 164 of the Cr.P.C. are also on the similar line.

5. When the postmortem report of the two deceased is perused, it corresponds to the narration of the Complainant's version and, it can be seen from the postmortem note that Aashabai Bhosale sustained one stab wound over right side of chin running towards left ear and tailing over left end underlying muscle and internal carotid artery. The injury is incised wound over right intrascapular area situated 10 cm right lateral to mid-line. The cause of death has been opined to be on account of the said stab injuries over neck. As far as Namnya Pawar is concerned, the death is on account of stab injury over abdomen.

6. In view of the clear findings in the postmortem report, which corresponds to the version of the Complainant, the Applicant is not attributed any role in assaulting the deceased, though the presence of the Applicant at the spot is clearly made out in the charge-sheet. However, since Accused No.1, the husband of the Applicant, is attributed the main role, during the trial will have to establish the necessary ingredients of Section 149 and the burden to be shared by other accused with the aid of Section 149 of the IPC is a matter of trial. *Prima facie* no overt act being attributed to the present Applicant and since the investigation is complete and the charge sheet filed, the

Applicant need not be incarcerated any further and is entitled to be released on bail.

ORDER

- (a) The Applicant – **Sampubai Gabrya Bhosale**, shall be released on bail in C.R. No.402 of 2019 registered with Lonand Police Station, District Satara on executing P.R. bond to the extent of Rs.25,000/- and furnishing one or two sureties of the like amount.
- (b) The Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case and shall not tamper with prosecution evidence.
- (c) The Applicant shall attend the trial court regularly unless exempted.

7. The Application is allowed in the aforestated terms.

8. All parties are directed to act on the downloaded copy of the order supplied by the Advocate under his seal and signature.

[SMT. BHARATI DANGRE, J.]