

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.956 OF 2021**

Smt.Sangita Dadasaheb Jagtap .. Applicant
Versus
The State of Maharashtra .. Respondent

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Mr.Sukumar Ghanwat for the Applicant.
Mr.Ajay Patil, APP for the State.

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**CORAM: BHARATI DANGRE, J.
DATED : 9th JULY, 2021**

P.C:-

1. The applicant is a woman aged 43 years, who has been charge-sheeted in C.R.No.415 of 2019 registered with Kavathemahankal Police Station, which invokes Sections 302, 143, 147, 148, 323, 504 and 506 read with Section 34 of the IPC. In connection with the said crime, she is arrested since 11/12/2019 and her bail application is rejected on two counts by the Additional Sessions Judge, Sangli.

2. The applicant is indicted as an accused on a complaint being instituted by Shrikrishna Balaso Jagtap, who allege that on 10/12/2019, his brother Arjun stepped out of the house at 8.00 a.m. and at 3 o'clock in the afternoon, when the complainant was present in the house alongwith his mother, Arjun came hurriedly, followed by his friend Bhanudas,

Shankar and one unknown person on motorcycle. When Bhanudas asked for Arjun, he came out of the house and he was made to sit on the vehicle with Shankar and unknown person. Bhanudas informed the complainant that when Arjun was asked to join them for lunch, an altercation had taken place between him, Arjun, Shankar and one unknown person and Arjun had slapped him and he also left from the place.

In the evening, the complainant was informed that Arjun was lying in injured condition, near the house of one Prakash Shinde. When he reached the spot, he saw bleeding injury near his eyebrow and on his knees. At that time, his friends to whom he had accompanied, were not there. The complainant learnt from the bystanders that Arjun was beaten by Bhanudas, Shankar, one unknown person and Sangita Dadasaheb Jagtap (applicant) by means of sticks and fist and blows. Based on this information, he alleges that his brother was killed by the accused persons. This resulted in invocation of Sections 302 and 364 read with Section 34 of the IPC.

3. The postmortem report records several injuries in column No.17, including CLW over right eyebrow. The cause of death is opined to be "Right haemothorax due to chest trauma". During the course of investigation, statements of witnesses are recorded and some statements are recorded under Section 164. Statement of one Pravin Koli is recorded, who had witnessed the incident. He had accompanied Bhanudas to the hotel where Shankar was present. One person was called there and was assaulted by them. Thereafter, he accompanied Bhanudas to the house of the

person, who was thrashed i.e. Arjun. He state that Bhanudas spoke to his brother. He also went to Shankar's house. He further state that Bhanudas and Shankar were assaulting the person, who was brought by them by visiting his house. He states that mother of Shankar (applicant) was requesting to open the door. When the door was opened, she also assaulted the boy (deceased). The injured person came out and started walking towards the road.

The statement of one Sagar Dubule, an eye witness to the incident, is recorded who states that when he was present in his pan shop, he had witnessed Arjun being assaulted by Bhanudas and Shankar by sticks and applicant -Sangita (Shankar's mother) was assaulting by hands. Statements of other witnesses are hear-say version.

4. There is recovery of two sticks and the statements of the witnesses is inconsistent on the role of the applicant as the eye witnesses have stated that the applicant has assaulted, but there is variance whether she assaulted by stick. The sticks are alleged to have been used by Shankar and Bhanudas. The material in the charge-sheet does not conclusively establish that the applicant has also assaulted the deceased by means of sticks as the postmortem report reflect that the cause of death is on account of chest trauma and column No.20 of the postmortem report refer to fracture on posterior side on 6th and 7th rib and presence of congestion with right pleural space filled with blood. The same cannot be attributed to the present applicant.

Since the investigation is complete and the charge-sheet is already filed, the applicant being a woman, is entitled for her release taking into consideration, *prima facie*, material against her in the charge-sheet.

: ORDER :

- (a) Application is allowed.
- (b) Applicant - Smt.Sangita Dadasaheb Jagtap shall be released on bail in C.R.No.415 of 2019 registered with Kavathemahankal Police Station on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.
- (c) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and shall not tamper with the prosecution evidence.
- (d) The applicant shall make herself available as and when required by the Investigating Officer.

SMT. BHARATI DANGRE, J