

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

CRIMINAL BAIL APPLICATION NO. 1691 OF 2021

Gulfasha @Alisha Mehraj Shaikh	 Applicant
Versus	
The State of Maharashtra	 Respondent

Mr. Aniket Vagal, for the applicant.

Ms. Pallavi N. Dabholkar, APP for the State/Respondent.

CORAM: SARANG V. KOTWAL, J.
DATE : 18th JUNE, 2021
(Through Video Conferencing)

P.C. :

1. The applicant is seeking her release on bail in connection with C.R.No. 444 of 2020 registered at Nigadi Police Station, Pune, on 20/11/2020 under sections 307, 306, 494, 498(A), 504, 511 read with Section 34 of the Indian Penal Code. The applicant was arrested on 19/11/2020 and since then she is in custody. The investigation is over and the charge-sheet is filed.

2. Heard Mr. Aniket Vagal, learned counsel for the applicant and Ms. Pallavi Dabholkar, learned APP for the State.

3. The FIR was lodged by the deceased Sheetal Banpatte herself. Her statement was recorded as F.I.R. As she died subsequently, it now becomes a Dying Declaration. She has stated that she got married to one Sachin Banpatte and they had a daughter. They had got married in the year 2014. In January 2020, the informant came to know that her husband was having extra marital affair with the present applicant. For that reason there used to be quarrels between the informant and her husband. The informant came to know that, her husband had got married secretly with the present applicant. After coming to know this, she was under mental pressure. On 19/11/2020, the informant carried petrol in a bottle. She went to the house of the present applicant. While going there, she poured kerosene on herself. She had kept a matchbox with her. She stood in the door of the applicant's house. She picked up a quarrel with the applicant. In the meantime, there was a scuffle between the applicant and her sister on one hand and the

informant on the other hand. During that scuffle, matchbox fall down. It is further alleged that the applicant lit a match stick causing fire, because of petrol which the informant had already poured on herself. She suffered burn injuries. She started running towards a government hospital which was nearby. She lodged her FIR after she was admitted in the hospital.

4. Learned Counsel for the applicant submitted that the FIR itself shows that the informant was holding serious grudge against the applicant. The informant had herself poured petrol on herself. She had carried the match box. Therefore her intention to implicate the applicant in a false case is more than clear. He submitted that the applicant has a son who is 10 months old. The child is with the applicant in the jail. There is weak evidence against the present applicant. There are no eye witnesses. In this background, the applicant deserve to be released on bail.

5. Learned APP left the decision of this application

to the discretion of this Court on humanitarian ground.

6. I have considered these submissions. With the assistance of both learned Counsel, I have perused the charge-sheet. As rightly submitted by learned Counsel for the applicant, there are no witnesses who have stated that the applicant had used a match stick to set the deceased ablaze. There are statements of witnesses like Chandrabhaga Shinde, Malini Pawar and Anita Kshirsagar who had seen the deceased already having caught fire. She was running towards the hospital.

7. The FIR-Dying Declaration of the deceased herself also mentioned that it was the deceased who had poured petrol on herself and had carried a matchbox. Therefore, at this stage sufficient doubt is created against the prosecution case. The applicant is a lady. She is in custody since 19/11/2020. The investigation is over and the charge-sheet is filed. She is in jail along-with her 10 months old son. Considering all these

aspects, the applicant deserves to be released on bail.

8. Hence the following order.

ORDER

- (i) In connection with C.R. No. 444 of 2020 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) Looking at the prevailing circumstances, it may not be possible for the applicant to furnish sureties immediately. Therefore, initially the applicant is permitted to furnish cash bail for the same amount. The applicant will have to furnish the sureties, as directed, within three months from today.
- (iii) The application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)