

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

CRIMINAL BAIL APPLICATION NO.3307 OF 2021

Sangita Sanjay Ghewade ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Raviraj Parmane, for the Applicant.

Mr. A. A. Palkar, A.P.P for the Respondent – State.

CORAM : REVATI MOHITE DERE, J.

DATE : 30th SEPTEMBER 2021

(THROUGH VIDEO CONFERENCING)

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the applicant seeks her enlargement on bail in connection with C.R. No. 154 of 2020 registered with the Kodoli Police Station, Kolhapur, for the alleged offence punishable under Section 302 of the Indian Penal Code.
3. Perused the papers. The applicant is the wife of deceased – Sanjay Ghewade. The applicant and the deceased were married for about 30 years and from the said wedlock have three grown up children. The

complainant – Rohit Ghewade, aged 22 years is the son of the applicant and deceased – Sanjay. It appears from the prosecution case, that the applicant and deceased - Sanjay would have quarrels on petty issues and the deceased used to threaten the applicant. The incident is alleged to have taken place on 14th June 2020. According to the complainant, he had gone to Kolhapur and had returned on the same day. He has stated that there was a quarrel between the applicant and deceased – Sanjay, his father on petty issues and that when he returned at about 4:00 p.m. on that day, he had seen the household articles thrown on the ground. He has stated that at about 6:15 p.m. he left the house and that at about 9:15 p.m. he saw his father returning home. He has stated that at about 9:30 p.m. when he was outside the house, he received a call from his sister stating that his father was not responding to her call. Pursuant thereto, the complainant went inside and saw his father lying in the kitchen with blood oozing from his head. The complainant found his mother i.e. the applicant sitting near the deceased and on asking the applicant what had happened, she disclosed that a quarrel had taken place between her and the deceased; that the deceased had abused her and in the scuffle he had fallen on the ground, pursuant to which, the applicant assaulted the deceased with a hammer on his head. The deceased died on the spot.

4. Learned Counsel for the applicant submits that the applicant had assaulted the deceased in exercise of her right to private defence as there was an imminent threat to her life. According to the learned counsel, the deceased was abusing her and tried to assault her with a hammer, pursuant to which, she took the hammer and assaulted the deceased on his head with the same hammer.

5. Whether or not the offence would be one under Section 302 of Indian Penal Code or a lesser offence, or whether the applicant assaulted the deceased in exercise of her right to private defence, is a matter which will be decided by the trial Court. *Prima facie*, in the facts, the applicant has made out a case for grant of bail.

6. The applicant is in custody since 15th June 2020. Investigation is complete and charge-sheet is filed and such further detention of the applicant is not warranted. Accordingly, the application is allowed and the applicant is enlarged on bail on the following terms and conditions:-

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 15,000/- with one or two sureties in the like amount;

(ii) The applicant shall inform her latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(iii) The applicant to cooperate with the conduct of the trial and attend the trial Court on all dates, unless exempted.

7. The application is allowed in the aforesaid terms and is accordingly disposed of.

8. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

9. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.