

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

CRIMINAL BAIL APPLICATION NO.3391 OF 2021

Usha Vishal Ghadge ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr. Meghdeep M. Oak, for the Applicant.

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

CORAM : REVATI MOHITE DERE, J.

DATE : 5th OCTOBER 2021

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. 202 of 2020 registered with the Shahupuri
Police Station, Satara, for the alleged offences punishable under Sections
302, 504, 506 r/w 34 of the Indian Penal Code.

3. Learned Counsel for the applicant submits that taking the prosecution case as it stands, it appears that the incident took place at the spur of the moment and that the applicant was admittedly not armed when she went to the house of the deceased. He submits that the allegation is that

the applicant's husband assaulted the deceased with a wooden log on his head and when the deceased fell down, the applicant picked up a brick lying at the spot and threw it at the deceased, as a result of which, the deceased again sustained an injury on his head. He submits that the incident took place on 1st June 2020 and whereas the deceased succumbed to the injuries on 24th June 2020, after the surgery, which was unsuccessful. He submits that the applicant is a lady and has a child aged 11 years and presently there is nobody to look after the child, inasmuch as, the applicant's husband also a co-accused in the said case is in custody.

4. Learned APP opposes the application.

5. Perused the papers. The applicant is the sister-in-law of the deceased – Ganesh and the complainant is the applicant's sister. According to the complainant, the incident took place on 1st June 2020 at around 5:30 p.m. The complainant has alleged that the applicant's husband came in front of their house and started abusing Ganesh (deceased), pursuant to which, Ganesh (deceased) also started abusing the applicant's husband. It is alleged that the applicant told her sister (complainant) that the deceased was always picking up quarrels with her husband. It is alleged that during

course of the quarrel between the applicant's husband and deceased – Ganesh, the applicant's husband went inside the house, brought a wooden log and assaulted Ganesh – deceased on his head. It is alleged that the applicant was also abusing the deceased and picked up a brick lying in front of the house and threw it on deceased – Ganesh's head. Pursuant to the said incident, relatives gathered and tried to separate the applicant, her husband and the deceased – Ganesh. Thereafter, Ganesh – deceased was taken to the hospital. He was in an unconscious state. It appears that a surgery was performed on the deceased – Ganesh and that on 24th June 2020, the deceased - Ganesh succumbed to the injuries. The cause of death is stated to be head injury. From the prosecution case, *prima facie*, it appears that the incident took place at the spur of the moment and that the applicant was not armed with any weapon, when she went to the house of the deceased. Whether the offence would be one under Section 302 of Indian Penal Code or a lesser offence, is a matter which will be decided by the trial Court at the time of the trial. The applicant is a lady with a small child, aged 11 years. The applicant is in custody since 5th June 2020. Investigation is complete and charge-sheet is filed.

6. In the facts, 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 released on cash bail in the sum of Rs. 15,000/- for a period of six weeks;
- (ii) The applicant shall within the said period of six weeks, furnish P.R. Bond in the sum of Rs. 15,000/- with one or two sureties in the like amount;
- (iii) 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;
- (iv) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (v) 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.