

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO. 493 OF 2022

Aruna Someshwar Nagsakhare

..APPLICANT

VERSUS

State of Maharashtra

..RESPONDENT

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Mr. R.S. Deshmukh, Senior Advocate a/w Mr. V.A. Chavan, Advocate i/b
Mr. D.R. Deshmukh, Advocate for applicant
Mr. V.S. Badakh, A.P.P. for respondent - State

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**CORAM : R.G. AVACHAT, J.
DATE : 26th AUGUST, 2022**

PER COURT :

1. This is an application for bail under Section 439 of Code of Criminal Procedure. The applicant has been arrested in connection with Crime No. 179 of 2022 registered with Malakoli Police Station, Dist. Nanded for the offence punishable under Section 302 of the Indian Penal Code.
2. Heard. Perused the First Information Report ("F.I.R.") and related police papers.
3. The F.I.R. has been lodged by father of the deceased – Suyog on 31st October, 2021. In short, the case of the prosecution is that the informant has a brother – Someshwar. The wives of both of them are real sisters. Both have been blessed with minor children. As per the case of the prosecution,

both the brothers and their family members would reside together. There used to be quarrel between the children. It is the case of the prosecution that the deceased – Suyog had once slapped the applicant herein. She had taken it to her heart.

4. For about fifteen days just before 31st October, 2021, the applicant had been to at her parent's house at Kamjalgewadi. The deceased – Suyog, son of the informant (son of the real sister of the applicant) had also been to the house of his maternal grandparents at Kamjalgewadi. It is further the case of prosecution that by 12.00 noon on 31st October, 2021, the applicant, her two minor children, deceased – Suyog and Amarnath (son of elder sister of the applicant) were at home. The applicant asked Amarnath to fetch some articles/goods for making the cake at home. She, therefore, paid him Rs.50/-. He left the house for shop. While he was on way back home, he saw the applicant proceeding towards the village. The applicant told him that she was going to fetch some other material/goods for making the cake. While Amarnath went back home, he found Suyog having been slept under a wooden cot. His body below the shoulders was covered with a bed-sheet. He then went close to Suyog to find him to have been strangled with a rope. On investigation, it was revealed that the applicant herein strangled Suyog as she had developed animus on account of she having been previously insulted and slapped by the deceased.

5. Learned counsel for the applicant would submit that the case is based on circumstantial evidence. When the incident took place, no one was at home. Even the applicant had left home. It might be a case that both, the deceased and the applicant were home sometime before the deceased died. According to him, the applicant is a twenty-eight years old lady having two children. He, therefore, urged for grant of the application.

6. Learned A.P.P. would, on the other hand, submit that for no reason a 10-12 years old boy had to lose his life at the hands of the applicant. The applicant is mother like figure for the deceased. There are statements of police personnel to indicate the applicant herself had made a phone call to one of them admitting commission of the crime. Learned A.P.P. has placed reliance on the statement of Amarnath to contend that the applicant only with a view to eliminate the deceased had given Amarnath a sum of Rs.50/- under the pretext to fetch some material/goods for making a cake at home.

7. No doubt, there is substance in the submissions made by the learned A.P.P. At this stage it can only be said that the applicant might have committed murder of the deceased. The applicant is a woman of twenty-eight years. She is a mother of two children. The case is based on circumstantial evidence.

8. In view of above, the application deserves to be allowed. Hence I pass the following order :-

ORDER

(I) The bail application is allowed.

(II) The applicant be released on bail, in connection with Crime No. 179 of 2022 registered with Malakoli Police Station, Dist. Nanded for the offence punishable under Section 302 of the Indian Penal Code, on executing PR. Bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with one surety in the like amount.

(III) The applicant shall not tamper with the prosecution evidence.

(R.G. AVACHAT, J.)

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