

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

BAIL APPLICATION NO. 614 OF 2022

Anjali w/o Nitin Biganiya	... Applicant
Versus	
The State of Maharashtra	... Respondent
....	
Mr. M. D. Godhamgaonkar, Advocate for applicant	
Mr. V. S. Badakh, APP for respondent - State	
....	

CORAM : R. G. AVACHAT, J.

DATED : 10th AUGUST, 2022

PER COURT :-

1. This is an application for bail under Section 439 of the Code of Criminal Procedure. The applicant has been arrested in connection with Crime No.0176/2021, registered at Itwara Police Station, District Nanded, for the offences punishable under Sections 143, 144, 147, 148, 149, 302, 307, 120-B, 294 of the Indian Penal Code and under Sections 3(1)(i), 3(ii), 3(2), 3(4) of the Maharashtra Control of Organized Crime (MCOCA) Act, 1999.

2. Heard. Perused the First Information Report (FIR) and related papers.

3. The FIR has been lodged by one Suraj Khirade on 21.07.2021. It appears to be a gang war of two groups. One gang headed by Vicky Thakur and another by Vicky Chavan. Vicky Chavan was murdered in 2021. It is said that there is a third gang headed by Nitin Biganiya. The applicant herein is the wife of Nitin Biganiya.

4. It is alleged in the FIR that the informant had been to the Sessions Court at Nanded on 02.07.2021 in connection with a Sessions Case. Under trial prisoner Lakhan Thakur was brought from jail. The informant claimed to be the friend of Lakhan Thakur. It is also averred in the FIR that accused Kailash Biganiya and the members of his gang had also been brought from jail to the Court. One Nikhil Madne had accompanied the informant Suraj Khirade. It is alleged that Kailash Biganiya had given threats to the life of Nikhil Madne. It is further averred that the present applicant had come to the Court to meet her husband Nitin. According to the informant, the applicant had rushed towards his person and threatened him of dire consequences.

5. It is the case of the prosecution that on 20.07.2021 at 7.30 p.m., Vicky Thakur was murdered by Nitin Biganiya (husband of the applicant herein) and his gang members.

6. Pursuant to the report/statement given by this Suraj Khirade, the Crime vide CR No.0176 of 2021 was registered for the offences stated herein above. During investigation, the provisions of MCOCA Act were invoked. On completion of the investigation, the charge-sheet has been filed. The applicant herein is one of the accused therewith.

7. The learned Advocate for the applicant would submit that the applicant has no criminal antecedents. She has been roped in only because of her being the wife of the main accused. Admittedly, this applicant was not present at the scene of offence, nor there is anything to indicate her involvement in the offence of murder of Vicky Thakur. According to the learned Advocate, the applicant has breast feeding child and the same is with her in jail. He, therefore, urged for grant of bail.

8. The learned APP would, on the other hand, submit that the applicant has been very much involved in the offence of conspiracy to commit an organized crime. She was very much present on the Court premises on 02.07.2021. There are statements to indicate the applicant to have had threatened the informant Suraj

Khirade of dire consequences. He, therefore, urged for rejection of the application.

9. Considered the submissions advanced. Perused the FIR and the related papers. The applicant has no criminal antecedents. It is, therefore, no question of her committing an organized crime. The main ingredient of which is the continuing unlawful activity. True, for the offence of abetment of organized crime, an abettor need not have criminal antecedents. The applicant is the wife of the main accused, who and his gang members have allegedly killed one Vicky Thakur on 20.07.2021. Admittedly, this applicant was not present at the scene of offence. There is also no material to show she was privy to a conspiracy to commit murder of Vicky Thakur. Only incriminating material against the applicant is that she had threatened the informant Suraj of dire consequences. The said incident took place on 02.07.2021. It appears that the informant Suraj has first time disclosed the same 18 days thereafter i.e. on 20.07.2021. As such, veracity of the said allegations would only be tested during his cross examination. The applicant is just 30 years of age. She has two minor children. One of them is with her in jail. These facts lead this Court to grant her bail. Hence, following order:

ORDER

- (i) The Bail Application is allowed.
- (ii) The applicant be released on bail in connection with Crime No.0176/2021, registered at Itwara Police Station, District Nanded, for the offences punishable under Sections 143, 144, 147, 148, 149, 302, 307, 120-B, 294 of the Indian Penal Code and under Sections 3(1)(i), 3(ii), 3(2), 3(4) of the Maharashtra Control of Organized Crime (MCOCA) Act, 1999, on her executing P. R. bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with surety bond of the like amount.
- (iii) The applicant shall not tamper with the prosecution evidence.

[R. G. AVACHAT, J.]