

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

BAIL APPLICATION NO. 840 OF 2022

Chhayabai Jaysingh Rathod

..APPLICANT

VERSUS

State of Maharashtra

..RESPONDENT

....
Mr. S.P. Salgar, Advocate for applicant
Mr. N.T. Bhagat, A.P.P. for respondent - State
....

**CORAM : R.G. AVACHAT, J.
DATE : 12th JULY, 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. 48 of 2022 registered with Pachora Police Station, Dist. Jalgaon for the offences punishable under Sections 302, 498-A, 323, 504, 506 read with Section 34 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 brother of the deceased – Manisha. It is alleged in the F.I.R. that Manisha married Chetan (Accused No.1) in June 2020. After marriage, Manisha started residing at her matrimonial house

alongwith husband, parents-in-law, elder brother-in-law – Jaysingh (*Jeth*) and his wife Chayabai (applicant herein) and younger brother-in-law – Bhagwan. After ten-fifteen days of marriage, Manisha had been to her parental house. She had informed her brother that her husband – Chetan had illicit relationship with the applicant herein. When she had raised the issue there over the same, both, her husband and the applicant herein had beaten her up and even given threats to her life. Manisha had shared the same with her parents-in-law. The applicant's husband and brother-in-law have however ignored the same. Both of them manhandled Manisha contending that she was defaming the family. Manisha was thereafter sent to her marital house. There was however, no change in the behaviour of her all the in-laws. All of them would abuse and beat her up with demand for money to be brought from her parental house to repay the loan raised for purchase of the car. It has also been averred in the F.I.R. that the husband of Manisha – Chetan was, therefore, paid Rs.50,000/- twice. He was also given a gold chain. Ill-treatment however continued. It has been specifically averred in the F.I.R. that the deceased – Manisha alongwith her husband and parents-in-law started residing separately in a house at their agricultural land. Her younger brother-in-law – Bhagwan used to ill-treat her by visiting her residence. Whenever her Jeth – Jaysingh goes out of town, Manisha's husband – Chetan would return home late. He used to beat her up. A month before Manisha breathed her last, she had been to her parent's house. While

the informant realised she had suffered a head injury, she told that her husband and the applicant herein had beaten her up as she had seen them in a compromising position. It has been specifically averred that both of them had earlier beaten her up on the head causing serious injury.

4. It has further been averred in the F.I.R. that on 04th February, 2022 Jeth - Jaysingh had telephonically informed the informant that Manisha suffered heart attack. He suspected something amiss. He immediately rushed to Manisha's residence to find injuries on her person. He, therefore, lodged the F.I.R. alleging the applicant and co-accused to have murdered Manisha.

5. Learned counsel for the applicant would submit that the applicant is a woman. She is a co-wife (भावज्य) of the deceased. Although it is assumed that she had illicit relationship with the husband of the deceased, admittedly she was residing separately with her husband. Learned counsel mean to say that Manisha died in a house in which she was residing alongwith her husband and parents-in-law only. He further meant to say that the applicant has, therefore, cannot be attributed any role in commission of the alleged offence since the deceased was found dead in her own house. He would further submit that investigation of the crime is over. Charge-sheet has been filed. He, therefore, urged for granting bail to the applicant.

6. Learned A.P.P. would, on the other hand, submit that it is a serious offence. The applicant has an illicit relationship with the husband of the deceased. There are averments in the F.I.R. indicating the applicant to have had assaulted the deceased many a time and given threats to her life. He, therefore, urged for rejection of the application.

7. Considered the submission advanced. Perused the F.I.R. and the related police papers. The applicant is twenty seven years old woman. She is the wife of elder brother-in-law of the deceased. The applicant is alleged to have illicit relationship with the husband of the deceased. The deceased had seen the same and she, therefore, used to narrate the same to all her in-laws. Even if we accept the allegations in the F.I.R. regarding the ill treatment of the deceased, the question is whether the applicant is one of the culprits responsible to the death of the deceased.

8. True, the inquest panchanama indicates injuries on the person of the deceased, the postmortem report suggests the cause of death as “burking with forceful penetration of genitals”. Viscera was preserved. Admittedly, the deceased died in a house wherein she was residing alongwith her husband and parents-in-law. Admittedly, the applicant and her husband were residing separately in some other house. The house of the deceased was in the agricultural field. There is prima facie nothing to indicate the applicant to

have been at the house of the deceased and did any overt act as a result of which Manisha died. The investigation of the crime is over. Charge-sheet has been filed.

9. In view of the aforesaid matter, the application deserves to be allowed. Hence, I pass the following order :-

ORDER

(I) The bail application is allowed.

(II) The applicant be released, in connection with Crime No. 48 of 2022 registered with Pachora Police Station, Dist. Jalgaon for the offences punishable under Sections 302, 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code, on executing P.R. 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.)

SSD