

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

BAIL APPLICATION NO. 1119 OF 2022

Nasrimbee w/o Abdul Gaffar	... Applicant
Versus	
The State of Maharashtra	... Respondent

....

Mr. H. F. Pawar, Advocate for applicant
Mr. A. V. Deshmukh, APP for respondent - State

....

CORAM : R. G. AVACHAT, J.
DATED : 22nd AUGUST, 2022

PER COURT :-

. 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.0030/2022, registered at Jalgaon taluka Police Station, District Jalgaon, for the offences punishable under Sections 302, 120-B read with 34 of the Indian Penal Code.

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

The FIR has been lodged by the brother of the deceased - Abdul Gaffar on 27.01.2022. It has been averred in the FIR that on 26.01.2022, the deceased had left home by 9.00 a.m. for work as a

Mason. He did not return home even by 8.00 p.m. The informant, therefore, contacted him on cell phone to learn that he would be back home in a short while. He, however, did not return home. The informant, therefore, went to the police station to lodge missing person's complaint. There, he learnt that a dead body of a person was lying near Taluka Agricultural Seed Centre on Jalgaon - Mamurabad road. He, went there to find the dead body of his brother Abdul Gaffar. Postmortem examination report indicates the deceased died of strangulation. The informant, therefore, lodged the FIR against unknown person.

3. The crime came to be investigated. It was found that co-accused Shaikh Sabir Shaikh Supdu had illicit relations with the applicant, wife of the deceased. The deceased had learnt the same. He had, therefore, decided to make it public among the members of the community. The co-accused Shaikh Sabir had also learnt that the deceased was harassing the applicant. He, therefore, decided to eliminate him. He took assistance of his friend, co-accused Shaikh Farooque. On 26.01.2022, both the co-accused came to Jalgaon. Accused Shaikh Sabir called the deceased to Subhash Chowk, Jalgaon. He came there. He was taken in the car. Other coaccused

was already in the car. Co-accused Shaikh Farooque caught hold of the deceased. Another accused Shaikh Sabir strangled the deceased with a cotton rope. After having ensured the deceased is no more, they drove him towards Jalgaon – Mamurabad road and dropped his dead body from the vehicle.

4. According to the prosecution, the applicant herein had conspired with the co-accused to eliminate her husband.

5. The learned Advocate for the applicant would submit that the applicant is a woman. She is in advance stage of pregnancy. She is alleged to be a party to conspiracy to eliminate her husband. As such, the case is based on circumstantial evidence. On investigation, the charge-sheet has been filed. He, therefore, urged for grant of application.

6. The learned APP would, on the other hand, submit that the Call Data Record (CDR) indicate the applicant and co-accused Shaikh Sabir had been in contact with each other. They were emotionally involved. The applicant has, therefore, every reason to be a party to the conspiracy to eliminate her husband. The deceased was killed pursuant to such conspiracy.

7. Considered the submissions advanced. Perused the FIR and the related papers. On investigation, the charge-sheet has been filed. The applicant is in advance stage of pregnancy. As per the prosecution case, she has not played any active role in the offence in question. This Court is therefore inclined to grant her application. Hence, following order:

ORDER

- (i) The Bail Application is allowed.
- (ii) The applicant be released on bail in connection with Crime No.0030/2022, registered at Jalgaon taluka Police Station, District Jalgaon, for the offences punishable under Sections 302, 120-B read with 34 of the Indian Penal Code, on her executing P. R. bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with surety bond of the like amount.
- (iv) The applicant shall not tamper with the prosecution evidence.

[R. G. AVACHAT, J.]