

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2649 OF 2021**

Phulabai Ramesh Thavil	]	Applicant
Vs.		
The State of Maharashtra	]	Respondent

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Mr. R.N. Gite, for Applicant.

Ms. M.R. Tidke, A.P.P, for Respondent – State.

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CORAM : G.A. SANAP, J.

DATE : 6th MAY, 2022.

P.C.

1. The applicant is accused No.1 in Crime No.I-14 of 2021 registered with Police Station Surgana for the offences punishable under sections 324, 323, 504, 506 r/w 34 of the Indian Penal Code. It is the case of the prosecution that on 7th March, 2021 while the informant and her husband namely Kantilal Thavil were present near hand pump of their field, this applicant who happens to be the sister-in-law of the informant was passing by the said place carrying a metal pot. Husband of the informant (since deceased) told this applicant that she should relinquish his share in his land. The applicant got annoyed and mercilessly beat him. Accused No.1 Raghunath Thavil came to the spot and started beating the deceased. He inflicted fist and kick blows. This applicant inflicted merciless blows on the head of the deceased with metal plot. The deceased sustained bleeding injuries. He was

shifted to rural hospital. From rural hospital, he was shifted to Civil Hospital, Nashik. After 21 days, the deceased succumbed to the injuries.

2. It is stated that the accused and the informant are related to each other. The dispute regarding land property is pending between them. On account of the said dispute, they were not on good terms. The applicant has not committed the crime. Accused Raghunath has been granted bail. The applicant is woman and, therefore, on the ground of parity she is required to be released on bail.

3. The learned A.P.P opposed the bail application. It is submitted that the crime committed by the applicant is serious. Deceased succumbed to the injuries inflicted by the applicant. Possibility of tampering with the prosecution evidence cannot be ruled out.

4. I have perused the record and proceedings. It is the case of the prosecution that this applicant inflicted mercilessly blows with the water pot on the head of the deceased. Deceased sustained multiple bleeding injuries. After 21 days, he succumbed to the injuries. It is to be noted that in the postmortem report, cause of death is stated as head injury. Besides, it has been stated that the result of antigen test was positive. There are eye witnesses to the incident of beating. It is undisputed that the deceased succumbed to the injuries after 21 days. There was dispute between the applicant and the deceased on account of immovable property. I

am conscious of the fact that while deciding the bail application, it is not permissible to record any finding on the merits. Such a finding, in my opinion, one way or the other can prejudice the prosecution or the accused. While deciding the bail application, the facts required to be taken into consideration are; seriousness of the crime, motive for commission of a crime, criminal antecedents of the accused and the possibility of tampering with the prosecution evidence.

5. In my opinion, considering the facts in totality by applying all these considerations to the case of the applicant, I am of the opinion that further incarceration of the applicant in prison would not be justified. Accused No.2 who has been roped in the crime with the help of section 34 of the I.P.C has been granted bail. The applicant is a woman. Co-accused has been granted bail. In my view, this is a fit case to invoke the principle of parity. Apprehension sought to be placed on record by the learned A.P.P can be taken care of by imposing appropriate conditions. Hence, the following order.

: ORDER :

[a] Applicant – Phulabai Ramesh Thavil shall be released on bail in Crime No. I – 14 of 2021 registered with Police Station Surgana, on her executing PR bond in the sum of Rs.25,000/- (Rs. Twenty Five Thousand only) with one or two sureties in the like amount;

[b] The applicant shall not tamper with prosecution evidence.

[c] The application is allowed in the aforesaid terms and stands disposed of accordingly.

[G.A. SANAP, J.]