

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

942 BAIL APPLICATION NO.2030 OF 2023

ASHWINI W/O RAHUL FARTADE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. S.B. Choudhary
APP for Respondent : Mr. S.A Gaikwad

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CORAM : S. G. CHAPALGAONKAR, J.
Dated: December 06, 2023

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PER COURT :-

1. The applicant seeks regular bail in connection with Crime No.193 of 2023 registered with Washi police station, District Osmanabad for the offences punishable under sections 302, r/w 34 of the Indian Penal Code.

2. Investigation was set in motion on the basis of the information given by one Ranjit Madhukar Fartade, who states that on 30.6.2023, he received telephonic information from one Datta Raut that his son Rahul is lying beside road alongwith his vehicle. The informant rushed to the spot and noted that his son had suffered injuries on his head and cheek, inflicted by a weapon. Accordingly, offence was registered against unknown culprits for the offence punishable u/s 302 of the IPC. Statement of the present applicant, who is wife of deceased is recorded on next day, wherein she disclosed that accused Suresh had given her a mobile phone. She had conversation with him. Suresh expressed that deceased was an

obstacle between them and he would kill him. Based on the statement of applicant, two accused persons were arrested. It appears that statement of Sindhu Fartade, who is Grandmother of the deceased was recorded on 14.9.2023 wherein she disclosed that she had heard talks between the applicant and Suresh, who was saying that he will kill the deceased and applicant was supporting him. It appears that the applicant came to be arrested on 21.9.2023. She is behind bar since then. Prayer for grant of bail has been rejected by the Court of Sessions Vide order dated 26.10.2023.

3. Learned advocate appearing for the applicant would submit that applicant is an innocent person and falsely implicated in aforesaid crime. He would submit that statement of the applicant was recorded immediately on next date of the incident. She has disclosed name of the accused Suresh, who had shown his intention to cause injuries to the deceased. He would further submit that role of the applicant is sought to be brought on record on the basis of the statement of the grand mother of the victim, which is recorded on 14.9.2023 i.e. after two and half months of the incident. He would submit that except aforesaid statement, there is no other evidence to bring home complicity of the applicant in commission of the offence. Investigation is completed. Charge-sheet is filed. Hence, further detention of the applicant need not be necessary.

4. Learned A.P.P. strongly opposes the prayer. He would submit that it is a case of love affair between the applicant and accused Suresh. With intention to remove

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obstacle of husband, the applicant alongwith other accused persons conspired together and committed heinous offence murder. Her role cannot be segregated from the other accused persons. Therefore, he strongly opposed the prayer for grant of bail.

5. Having considered the submissions advanced, it is apparent that the applicant is not named as assailant, but she is arrayed as an accused with the allegation of conspiracy to commit murder alongwith other accused persons. Prima facie, statement of the applicant which was recorded immediately on next date of the incident shows that she had affair with accused Suresh, however, complicity of applicant is sought to be brought on record on the basis of 161 statement of Grandmother of the deceased namely Sindhu dated 14.9.2023. There is nothing on record to indicate that why statement of Sindhu is recorded after 2 and half months of the incident when she was readily available for giving statement. Prima facie, evidence in charge-sheet is bereft to bring home the role of the applicant as conspirator in commission of the murder. The applicant is a lady. She is behind the bar for more than two and half months. Whether she is a conspirator alongwith other accused persons would be subject matter of the trial. Further detention of the applicant may not be necessary. In that view of the matter, case is made out for grant of bail. Hence, the order.

ORDER

- i. Bail Application is hereby allowed.

- ii. The applicant - Ashwini w/o Rahul Fartade be released on bail in connection with Crime No.193 of 2023 registered with Washi police station, District Osmanabad for the offences punishable under sections 302 r/w 34 of the Indian Penal Code on her furnishing P.B. & S.B. of Rs.50,000/- (Rs.Fifty Thousand), on the following conditions :-
 - a] The applicant shall not tamper the prosecution evidence.
 - b] The applicant shall attend each and every effective date before the trial court.
- iii. Bail application is accordingly disposed off.

(S.G. CHAPALGAONKAR)
JUDGE

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