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

**BAIL APPLICATION NO.2136 OF 2023**

**SONAL W/O RAHUL PAWAR @ SONAL TANPURE**

**VERSUS**

**THE STATE OF MAHARASHTRA**

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**Advocate for Applicant : Mr. Sopan Gynba Bobade  
APP for Respondents: Mr. S.A. Gaikwad.**

**CORAM : S.G. CHAPALGAONKAR, J.**

**DATE : 8 DECEMBER, 2023**

**ORDER :-**

1. The applicant is seeking regular bail in connection with Crime No. 315 of 2023 dated 9.8.2021 registered with Pundlik Nagar Police Station, Dist. Aurangabad for the offences punishable under Sections 302, 341, 342, 326, 307, 114, 143, 144, 147, 148, 149, 201 of IPC.

2. At the outset, this is the second bail application before this court on behalf of the applicant. Her previous bail application No. 152 of 2022 has been disposed of as withdrawn vide order dated 2.3.2022. The investigation was set in motion on the basis of information given by one Pravin Rajput who states that on 8.8.2023, a telephonic call was received to his mother from police station, Pundlik Nagar that the elder brother of the informant, namely, Akash has suffered injuries on account of assault

on him and he is lying on the road. Immediately the informant and his mother reached to the spot and they found that the police have put his brother in their vehicle. They took the informant and his mother along with them. They noticed that Akash has suffered serious injuries however he was talking. He informed his mother that previously he alongwith his friend Sagar had altercation at Hussain colony with Ganesh Tanpure. Therefore, Ganesh Tanpure, his brother Sachin intercepted them. They hurled abuses. His friend Sagar Raut escaped. However, accused Ganesh Tanpure caused injury of knife on him and his brother Rishikesh hit him by iron rod. Their relative namely Sandip Jadhav, Rahul Pawar assaulted him by wooden logs. Accused - Mangal Tanpure hit him with stone. As such he suffered multiple injuries. FIR further discloses that the statement of injured Akash was videographed by Nisar Shaikh, Police Officer. Thereafter he was taken to Government hospital where he last breathed on 9th August 2021. Pertinently supplementary statement of the first informant has been recorded after 41 days, wherein, he has introduced name of the present applicant alongwith other accused persons being the assailants. Pertinently, the statement of first informant was also recorded on 16th August 2021 under section 164 of Cr.P.C. wherein, he has referred the name of only five accused persons. The name of the applicant is absent in that statement. The investigation progressed the applicant is arrested on 31st August 2021. Since then she is behind bars.

3. Mr Bobade, learned advocate for the applicant submits that the applicant is a lady. She has a child aged about 3 years. She is not named in the FIR but the supplementary statement recorded after 41 days introduced her as one of the assailants along with other accused.

He would submit that the omnibus allegations are made against the applicant. The applicant is behind bars for more than 30 months by this time. The trial would take its own course. The trial is still at the stage of charge and not proceeding further. He would submit that indefinite incarceration of the under-trial accused is in conflict with the constitutional right guaranteed under article 21 of the Constitution of India. He, therefore, urges that the applicant be released on Bill.

4. Learned APP vehemently opposes the prayer for grant of bail. He would submit that the previous bail application of the applicant has been unconditionally withdrawn. There is no change in circumstance. He would further submit that there are criminal antecedents to discredit the applicant and her family members. He would submit that since charge is framed, at the most trial can be expedited. He would further submit that the statement of the eye witnesses depict role of the applicant in commission of offence. Therefore, he prays for rejection of the application for bail.

5. Having considered the submissions advanced, it can be observed that the previous bail application of the applicant was not decided on merit. It has been withdrawn on disinclination of this court. Considering the fact that the period of more than 30 months has been lapsed and trial is at nascent stage, the submissions on merits of the advanced on behalf of the applicant are considered together with the delay in trial. It is trite that expeditious trial is a constitutional right of an under-trial prisoner guaranteed under article 21 of the constitution of India. Indefinite incarceration of the under-trial accused cannot be permitted. Looking to the fact that over 30 months have been passed

from the date of arrest of the applicant. It would be just and proper to consider her prayer for grant of bail.

6. Perusal of the FIR clearly depicts that it is based on statement given by deceased himself while he was taken to the hospital. The details of the incident are recorded in FIR. The role of accused persons is elaborately stated therein. Pertinently, name of the applicant is absent in the FIR. On 16.8.2021, the statement of the informant under Section 164 of Cr.P.C. was recorded, wherein, he repeated the names of the accused persons who were named in the FIR. However in the supplementary statement dated 17 September 2021 he improved the version to include the name of the applicant as one of the assailants. The learned APP, invited attention of this court to the statement of the eye witnesses - Deepali Dabhade recorded on 27th August 2021, wherein, the name of the applicant is appearing as one of the assailants. However, averments in the statements are Omnibus and no specific role is attributed against the applicant. Same is the case in respect of 164 statement of the eye witness Pooja Kale.

7. The overall consideration of the material on record depicts that the role of the applicant was not into picture for more than three weeks of the incident. The statement of witnesses recorded earlier alongwith contents of the FIR do not depict presence of the applicant on the spot. In that view of the matter and particularly because of the delay in trial, a case is made up for grant of bail.

## O R D E R

- (i) The application is partly allowed.
- (ii) The applicant – Sonal w/o. Rahul Pawar @ Sonal Tanpure, be released on bail on furnishing P.B. and S.B. of Rs. 50,000/- (rupees fifty thousand) with one solvent surety of the like amount, in connection with Crime No. 315 of 2023 dated 9.8.2021 registered with Pundlik Nagar Police Station, Dist. Aurangabad for the offences punishable under Sections 302, 341, 342, 326, 307, 114, 143, 144, 147, 148, 149, 201 of IPC., on the following conditions :-
- [a] The applicant shall not tamper with the prosecutors evidence.
- [b] The applicant shall not enter the Garkheda Parisar till disposal of the trial.
- [c] Needless to mention that the observations made hereinabove are on prima facie consideration of the material on record and made only for the purpose of deciding of this application.

**[S.G. CHAPALGAONKAR]**  
**JUDGE**

grt/-