

AGK

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.308 OF 2023

Sunita Anil Zendphale

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. Karan Singh Rajput with Mr. Fauzan Shaikh for the
applicant.

Mr. P.H. Gaikwad, APP for the respondent/State.

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CORAM : AMIT BORKAR, J.

DATED : JUNE 30, 2023

P.C.:

1. This is an application under Section 439 of the Criminal Procedure Code, 1973 in connection with C.R. No.196 of 2022 registered with respondent No.1/police station for offence punishable under Sections 302, 201, 120-B read with 34 of the Indian Penal Code, 1860.

2. According to prosecution, the applicant is accused No.2. She is wife of the deceased. Accused No.1 was having illicit relation with accused No.2 (applicant). The deceased was harassing accused No.2 under the influence of liquor and was objecting the love relationship between accused Nos.1 and 2. For the said reason, accused No.2 engaged accused No.1 to commit murder of the deceased. Accused No.1 allured the deceased by intoxicating

him. He assaulted the deceased by hammering on head. Report was registered on 3 June 2022. Applicant was arrested on 5 June 2022.

3. The investigating agency carried out investigation and filed charge-sheet against accused Nos.1 and 2.

4. The application filed by the applicant before the learned Additional Sessions Judge-9, Nashik has been rejected by order dated 15 October 2022. The applicant, therefore, filed present bail application.

5. According to applicant, prosecution is alleging motive of illicit relationship between accused No.1 and applicant for murder of the deceased. According to him, CDR of calls between the applicant and accused No.2 are not sufficient to connect the applicant with the alleged crime. Therefore, according to him, the applicant deserves to be released on bail.

6. However, learned APP submitted that the extramarital relationship between the accused Nos.1 and 2 was the motive for commission of murder of the deceased. Accused No.1 leave deceased under the influence of liquor, took him to spot of incident and committed murder by using hammer. The applicant and accused No.1 were in constant touch with each other on telephone on the date of incident and even prior thereto which is sufficient to indicate at this stage that both the applicant and accused No.1 has conspired to commit murder of the deceased.

7. On perusal of the charge-sheet and after hearing both sides, it appears prima facie that Call Detail Records (CDR) between the

applicant and accused No.1 are long. The alleged date of incident is 3 June 2022. CDR of one month prior to the alleged incident forms part of record. On prima facie perusal of the record, it appears that on the date of alleged incident, there are three calls between the applicant and accused No.1 of 327, 192 and 92 seconds. A day prior to it, the length of calls are around 288, 178, 406, 123 and 94 seconds. Even prior thereto, there are call details in the record. The statement of witnesses supports the theory of prosecution that there was illicit relationship between the applicant and accused No.1. The accused No.1 had threatened the deceased to kill him. Because of this relationship, there used to be quarrels between the deceased and accused No.2.

8. At this stage, the evidence on record prima facie indicates involvement of the applicant in commission of crime. There is no merit in the bail application.

9. The bail application stands rejected. No costs.

(AMIT BORKAR, J.)