

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

BAIL APPLICATION NO. 1839 OF 2022

Mamta Tirthanand Ukey

... Applicant

v/s.

The State of Maharashtra

.... Respondent

Mr. Gaurav Bhawnani a/w. Mr. Abdul Wahab Khan for the Applicant.

Mr. S.V. Gavand, APP for the State.

Mr. Sandeep More, PI, Pantnagar Police Station, Mumbai.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 12th APRIL, 2023.

P. C. :-

. This is an Application under section 439 of Cr.PC. filed by the aforesaid Applicant who is facing trial in Sessions Case No.519/2022 pending on the file of Addl. Sessions Judge, Sessions Court, Mumbai. The said case arises from C.R.No.40/2022 registered with Pantnagar Police Station, Mumbai for offences punishable under sections 302, 452, 504, 506 of the Indian Penal Code.

2. Heard learned counsel for the Applicant and learned APP for the State. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The aforesaid crime was registered pursuant to the FIR lodged by Ashwini Jagdish Gamre, the niece of the deceased – Rekha. The facts narrated in the FIR prima facie reveal that the deceased owed some money to the Applicant. On 20/01/2022, the Applicant went to the house of the deceased and demanded the money. She abused and threatened her. She has stated that the Applicant went inside the house and brought a rolling pin from the kitchen and inflicted two to three blows of the rolling pin on the head of the deceased – Rekha and thereafter, banged her head on the floor. She has stated that the deceased was unconscious, she was taken to the hospital but was declared dead.

4. The post mortem report prima facie reveals that there was one contused laceration over left parieto temporal area of scalp of size 6 cm x 3 cm x bone deep reddish with fissured hairline fracture of left temporal bone. The post mortem report reveals that the death was caused due to head injury.

5. The material on record prima facie shows the involvement of the Applicant in commission of the crime. However, it is seen that the Applicant had not gone to the house of the deceased armed with a

weapon. The FIR itself indicate that she had gone to the house of the deceased to ask for repayment of money. The deceased had told her to wait for some days. Thereafter, the Applicant had abused and threatened her and inflicted a blow of rolling pin, which cannot be considered to be a dangerous weapon. The material on record does not prima facie indicate that the Applicant had inflicted the injury with an intention of causing the death of the deceased.

6. Considering all the above facts and circumstances, prima facie, offence under section 302 of IPC is not made out. The Applicant is in custody since 20/01/2022. Charge is not yet framed. Considering the large pendency, the trial is not likely to conclude in the near future. Considering these aspects as well as the fact that the Applicant is a woman, I am inclined to exercise discretion under section 439 of Cr.P.C. in favour of the Applicant. Hence, the Application is allowed on the following terms and conditions :-

- (i) The Applicant who is facing trial in Sessions Case No.519/2022 pending on the file of Addl. Sessions Judge, Sessions Court, Mumbai arising out of C.R.No.40/2022 registered with Pantnagar Police Station, Mumbai, is ordered to be released on bail on furnishing PR. bonds in the sum of

Rs.40,000/- with one or two solvent sureties in the like amount ;

- (ii) The Applicant shall report to Pantnagar Police Station, Mumbai on 1st Monday of every month till the date of framing of the charge ;
- (iii) The Applicant shall not interfere with the prosecution witnesses and shall not tamper with the evidence or attempt to influence or contact the witnesses or any person concerned with the case in any manner ;
- (iv) The Applicant shall keep the Trial Court informed of her current address and mobile contact number and/or change of residence or mobile details, if any, from time to time.
- (v) The Applicant shall co-operate with the conduct of the trial and attend the trial Court on all dates, unless exempted.

7. Bail Application stands disposed of in above terms.

PREETI
H
JAYANI

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by PREETI H
JAYANI
Date: 2023.04.15
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(SMT. ANUJA PRABHUDESSAI, J.)