

SA Pathan

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

**WITH
BAIL APPLICATION NO.817 OF 2023**

Nisha Kailas Sable	... Applicant
V/s.	
The State of Maharashtra	... Respondent

**WITH
INTERIM APPLICATION NO.2171 OF 2023
IN
BAIL APPLICATION NO.817 OF 2023**

Hanumant Baburao Sable	... Applicant
<i>In the matter between</i>	
Nisha Kailas Sable	... Applicant
V/s.	
The State of Maharashtra	... Respondent

Mr. Chetan Damre, for Applicant in BA No.817/2023.

Ms.Babita Pandey, for the Applicant in IA No.2171/2023.

Mrs. Rutuja Ambekar, APP for State-Respondent.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 4, 2023

P.C.:

1. This is an application filed under Section 439 of the Code of Criminal Procedure, 1973, (for short 'Cr.PC.') in connection with C.R. No.I-274 of 2022 registered with Ambad police station, Nashik for offences punishable under Sections 302 r/w 34 of the Indian Penal Code (for short 'IPC').

2. According to prosecution, one Hari Singh of concerned police station lodged a report alleging that he received information on 12 June 2022 that one person is found dead. When he visited spot of incident, the applicant who is wife of deceased informed him that on 12 June 2022 at 4:30 to 5 am her deceased husband came in the house in intoxicated condition. He had injuries on his head. She applied turmeric to heal wound. Thereafter, her husband went to sleep. She went to wake up him, he found dead. Accordingly, report was lodged with concerned police station. In the inquest panchnama, it was revealed that the death is homicidal. According to prosecution, the deceased was having of influence of liquor and had illicit relationship with one Bharti Deore. Accused persons Pintu, Babu and Rohit were his friends. On 12 June 2022, the aforesaid persons who were trying to convene the deceased not to consume liquor, scuffle broke out between them. Accused Nos.1 to 3 assaulted the deceased all over the body by using wooden rod. The role attributed to the applicant is of assaulting private part of the deceased by fist and blows. After assault, accused No.1 to 3 carried out deceased on their motorcycle. The applicant applied turmeric on wounds on head. He was administered turmeric milk by the applicant. According to prosecution, accused Nos.1 to 4 in connivance with each other committed murder of the deceased.

3. Initially, Section 304 read with 34 of the IPC was registered against accused. However, later on Section 302 was added against all accused.

4. Learned Advocate for the applicant submitted that except

assault by fist, blows and kick on private part, no other role attributed to the applicant. The allegations of causing injuries which resulted in death are attributed to other three accused.

5. It is the case of prosecution that the applicant applied turmeric on wound of deceased and administered turmeric milk to him. The motive alleged against the accused persons needs to be adjudicated during trial. There are no antecedents to the discredit of the applicant.

6. The applicant is women. The applicant was arrested on 13 June 2022. The charges are yet to be framed. It is unlikely that the trial will be over in the immediate future. The applicant has, therefore, made out a case for release under Section 439 of Cr.P.C. Hence, following order passed:

- a) The application is allowed.
- b) The applicant Nisha Kailas Sable be released on bail in connection with C.R. No.I-274 of 2022 registered with Ambad police station, Nashik for offences punishable under Sections 302 r/w 34 of IPC, on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.
- c) The applicant shall mark her attendance with the concern police station on first Saturday of each month between between 11:00 am to 2:00 pm till conclusion of trial.
- d) The applicant shall remain present before the trial

Court on each date unless specifically exempted by the Trial Court.

e) The applicant shall not directly or indirectly make any inducement, threat or promise to her daughters and any witness acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the court.

f) The applicant shall, at the time of execution of the bond, furnish her address and mobile number to the investigating officer, and the court concerned, and shall not change the residence till the final disposal of the case.

g) The applicant shall not tamper with the evidence of the prosecution and shall not influence the witnesses.

7. The bail application stands disposed of in above terms. No costs.

8. In view of disposal of the bail applications nothing remains to be adjudicated in the interim application, therefore interim application stands disposed of accordingly.

(AMIT BORKAR, J.)