



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

958 BAIL APPLICATION NO. 1879 OF 2024

. Yogita w/o Bhagwan Misal .. Applicant

VERSUS

. The State of Maharashtra .. Respondent

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WITH

CRIMINAL APPLICATION NO. 4446 OF 2024

IN

BA/1879/2024

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Advocate for Applicant : Mr. Yogesh Chandrakant Patil
APP for Respondent/State: Mr. B. A. Shinde

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Advocate for Applicant in Cr.Appln.No.4446/2024 :
Mr. Ganesh J. Kore

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CORAM : ARUN R. PEDNEKER, J.

DATE : 14.11.2024

P.C. :

1] Heard learned counsel for the applicant and the
learned APP for the respondent-State.

2] The application for assist to Public Prosecutor is
allowed.

3] By the present Bail Application No.1879 of

2024, the applicant Yogita Bhagwan Misal prays for regular bail as she was arrested in connection with Crime No.010 of 2024, registered with Bhoom Police Station, Bhoom, Taluka Bhoom, District Dharashiv, for the offences punishable under Sections 302, 323, 504, 506 r/w. 34 of IPC.

4] Case of the prosecution as depicted in the FIR registered by Rekha Tukaram Gund cousin of the deceased is that on 16.01.2024 at about 09:30 p.m. the deceased was assaulted by 5 persons one amongst them being a minor (son of deceased) along with the applicant (wife of deceased) and other 3 persons in all 5 persons with sticks and blows in front of the house of the deceased in the field. The deceased succumbed to the injuries and passed away. The incident was witnessed by 5 eye witnesses. Consequently, the applicant so also 2 others are arrested in the crime. One Prashant Kshirsagar along with the present applicant and the minor son Raviraj.

5] The minor is tried separately before the Juvenile Court. Application for bail filed by the applicant was earlier dismissed by this court as withdrawn. However, the application filed by Prashant Kshirsagar is allowed by the Hon'ble Supreme Court by order dated 06.09.2024, in SLP (Criminal) No.10226 of 2024. In view of the order of the Hon'ble Supreme Court in the case of Prashant

Kshirsagar the present application is filed by the applicant seeking bail on the ground of parity. The learned counsel for the applicant has submitted that the role of the applicant so also the role of Prashant Kshirsagar is not different. It is alleged by the prosecution that the Prashant Kshirsagar has illicit relations with the applicant and that he was involved in the incident. He has hit the deceased with fist and blows along with the applicant and others. The learned counsel has taken me through the 161 Cr.P.C. statement of Krushna, Dattatraya and Dnyaneshwar.

6] On perusal of the 161 statement, primarily, of Krushna the learned counsel points out the role attributed to the present applicant Yogita is that she has stated to the deceased that “you drink and troubled me and that I will kill you”. This was the statement she had made to the deceased when the other people had tried to intervene. The learned counsel has pointed out the role of the present applicant Yogita, Raviraj and Prashant Kshirsagar mentioned by Krushna is also identical except that he has stated that Prashant Kshirsagar used fist blows and kicks while others used sticks. However, the learned counsel submits that there is no categorical statement individually for the applicant that she used stick. There is a general statement that all accused used sticks against the victim. As such, the learned counsel submits that the role of the present applicant Yogita is identical to Prashant Kshirsagar.

In view of the bail granted to Prashant Kshirsagar the applicant may be granted bail.

7] Per contra, the learned APP submits that the difference between the case of the present applicant Yogita and Prashant Kshirsagar is that the name of Prashant Kshirsagar was not mentioned in the FIR, so also, there is no provocation by Prashant Kshirsagar and Prashant Kshirsagar has used fist and blows and whereas the present applicant Yogita has used sticks against the victim.

8] Perusal of the Judgment of the Hon'ble Supreme Court as noted above in the case of Prashant Kshirsagar it can be seen that bail is granted on merits and not for the reason of that his name is not mentioned in the FIR. As regards the 161 statements of the witnesses are concerned, Prashant Kshirsagar was involved directly in the fight. The present applicant Yogita apparently was instigated them. However, there is no specific statement that the present applicant Yogita had hit the deceased with sticks although general statement is made by witnesses that all of the accused used stick on the victim. In view of the bail granted to Prashant Kshirsagar, I deem it appropriate to grant bail to the present applicant Yogita on the ground of parity.

9] In view of the above, the application is allowed

in the following terms :

a] The applicant shall be released on bail in connection with Crime No.010 of 2024, registered with Bhoom Police Station, Bhoom, Taluka Bhoom, District Dharashiv, for the offences punishable under Sections 302, 323, 504, 506 r/w. 34 of IPC, on furnishing PR bond of Rs.15,000/- with one or two sureties in the like amount to the satisfaction of the trial Court.

b] The applicant, upon being released on bail, shall not contact the informant, in any manner whatsoever, during the pendency of the trial.

c] The applicant shall co-operate with the trial Court and she shall attend each and every date, unless exempted by the trial Court.

d] The applicant shall not tamper with the evidence of the prosecution and she shall not influence the informant, witnesses and other persons concerned with the case.

e] The applicant, upon being released on bail, shall place on record of the trial Court the details of her Contact Number and residential address with

updates in case of any change.

10] Needless to say, in case of violation of any of the aforesaid conditions, the bail granted to the applicant shall be liable to be cancelled. It is also clarified that the observations made in this order are limited to the disposal of the present bail application. The concerned Court shall proceed further in the matter without being influenced by the observations made hereinabove.

11] The application stands disposed of.

[ARUN R. PEDNEKER]
JUDGE

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