

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

BAIL APPLICATION NO.2699 OF 2023

Pamabai Sopan Gawade

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Sarang S. Aradhya a/w Ms. Gauri Velankar, Ms. Shruti Kothavade & Mr. Saarth Chordia, for the Applicant.

Mr. P. P. Deokar, APP, for the Respondent-State.

CORAM: MADHAV J. JAMDAR, J.

DATED: 01 APRIL 2024

P.C.:

1. Heard Mr. Aradhya, learned Counsel for the Applicant and Mr. Deokar, learned APP for the Respondent-State.

2. This regular Bail Application is preferred under Section 439 of the *Code of Criminal Procedure, 1973*. The relevant details are as follows:-

1	C.R. No.	561 of 2021
2	Date of registration of F.I.R.	20/05/2021
3	Name of Police Station	Sangola, District-Solapur
4	Section/s invoked	302, 201 r/w 34 of the <i>I.P.C., 1860</i>
5	Date of incident	20/05/2021
6	Date of arrest	21/05/2021
7	Date of filing Charge-sheet	23/06/2021

3. The Applicant is Accused No.1 and the deceased was her husband. As per the prosecution case, the Applicant i.e. Accused No.1

was in a relationship outside of marriage with Accused No.2 and as the deceased was opposing the said relationship, the Accused No.1 and Accused No.2, assaulted the deceased and murdered him on the night of 20th May 2021.

4. Mr. Aradhye, learned Counsel for the Applicant submitted that the Accused No.2 who has been attributed with a similar role, has been granted bail by Order dated 30th November 2022 passed by a learned Single Judge [N.R. Borkar, J.] in Bail Application No.3780 of 2021. He submitted that the Applicant is a woman and she is incarcerated since about 2 years and 11 months. He submitted that there is no progress in the trial and even Charge is also not framed yet. He submitted that the Applicant is incarcerated along with her 7 years old girl child. He therefore submitted that the case is of circumstantial evidence and there is no eye-witness to the incident and the only witness is the child. He therefore submitted that the Applicant be granted bail on the basis of parity.

5. On the other hand, Mr. Deokar, learned APP strongly opposed the Bail Application. He pointed out the statement of child witness (Page no.89). Said statement shows involvement of both the Accused persons. He submitted that both the Accused have mercilessly assaulted the deceased. He submitted that there is a strong motive and the Accused No.1 was in a relationship outside of marriage with Accused No.2 and

the deceased was objecting to the same. He therefore submitted that the Bail Application be rejected. Mr. Deokar, learned APP, on instructions, stated that there are no antecedents against the Applicant.

6. Perusal of the record shows that the incident in question took place on 20th May 2021, F.I.R. was registered on 20th May 2021 and the Applicant was arrested on 21st May 2021. Till date, there is no progress in the trial and even the charges are also not framed yet. It is an admitted position that investigation has been completed and Charge-sheet has been filed on 23rd June 2021. As per the Charge-sheet, there are a total of about 43 witness proposed to be examined by the prosecution. The trial will take a considerably long time. The Applicant is a young woman aged 26 years. The Applicant is the mother of a girl child aged 7 years who is also in the jail along with the Applicant.

7. The Applicant does not have any criminal antecedents.

8. The Applicant does not appear to be at risk of flight.

9. Accordingly, the Applicant can be enlarged on bail by imposing conditions.

10. In view thereof, the following order:-

ORDER

- (a) The Applicant-Pamabai Sopan Gawade be released on bail in connection with C.R. No.561 of 2021 registered with the Sangola Police Station, District-Solapur on her furnishing PR. Bond of Rs.25,000/- with one or two sureties in the like

amount.

- (b) On being released on bail, the Applicant shall furnish her cell phone number and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto.
- (c) The Applicant shall report to the Sangola Police Station, District-Solapur as and when called, until the conclusion of the trial.
- (d) The Applicant shall not directly or indirectly make any inducement, threat, or promise to any person acquainted with the facts of the case, so as to dissuade such a person from disclosing the facts to the Court or to any Police personnel.
- (e) The Applicant shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any witness in any manner.
- (f) The Applicant shall attend the trial regularly. The Applicant shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.
- (g) The Applicant shall surrender her passport, if any, to the Investigating Officer.

11. The Bail Application is disposed of accordingly.

12. It is clarified that the observations made herein are *prima facie*, and the Trial Court shall decide the case on its merits, uninfluenced by the observations made in this Order.

[MADHAV J. JAMDAR, J.]