

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

BAIL APPLICATION NO.4231 OF 2023

Amruta Swaminath *alias* Umesh Balekai .Applicant

Versus

The State of Maharashtra .Respondent

Mr. Siddhant H. Deshpande, Advocate, for the Applicant (through VC).
Ms. S. S. Kaushik, APP, for the Respondent – State.

CORAM: MADHAV J. JAMDAR, J.

DATE : 05.03.2024

P. C.

1. Heard Mr. Deshpande, learned Counsel for the Applicant and Ms. Kaushik, 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.	525 of 2020
2.	Date of registration of F.I.R.	22.11.2020
3.	Name of Police Station	Paud Police Station, Pune
4.	Sections invoked	302, 201 r/w. 34 of the I.P.C., 1860
5.	Date of incident	13.11.2020
6.	Date of arrest	23.11.2020
7.	Date of filing of Charge-sheet	16.02.2021

3. The Applicant is Accused No.2. Accused No.1 is the husband of

the Applicant. As per the prosecution case, the Applicant was in a relationship outside of marriage with one Vijaykumar Rathod. The said relationship was with the consent of the Accused No.1 - husband of the Applicant, as Accused No.1 is ailing. The deceased is the brother of the Accused No.1 and he had come to reside with the Accused No.1. He found that the Applicant was in a relationship outside of marriage with the said person and he objected to the same. Although Accused No.1 informed him that the relationship is with consent, he took objection to the same. At the relevant time, on the date of the incident i.e. 13.11.2020, the deceased, under the influence of alcohol was abusing the present Applicant. Accused No.1 and the present Applicant i.e. Accused No.2 thought that if the deceased went to their native town and informed others about said relationship, their reputation will be tarnished. Therefore, the incident in question has taken place. Thereafter, both the accused tried to destroy the evidence.

4. Mr. Deshpande, learned Counsel appearing for the Applicant submitted that the incident in question is of 13.11.2020, FIR has been registered on 22.11.2020 and the Applicant is incarcerated since 23.11.2020. Thus, the Applicant is behind bars for about three years and three months. He submitted that there is no progress in the trial and even the charge is also not framed yet. He submitted that the incident in question had taken place on the spur of the moment and

that there was no intention to commit the said offence. He submitted that there are no antecedents. Therefore, he prayed that the Applicant may be granted bail.

5. On the other hand, Ms. Kaushik, learned APP appearing for the Respondent – State vehemently opposed the Bail Application. She submitted that the Applicant and the Accused No.1 mercilessly assaulted the deceased and thereafter tried to destroy the evidence. However, after taking instructions, she submitted that there are no antecedents.

6. A perusal of the record shows that the incident in question has taken place on 13.11.2020. F.I.R. was lodged on 22.11.2020 and the Applicant was apprehended on 23.11.2020. Charge-sheet has been filed on 16.02.2021. Till date, there is no progress in the trial and even charge is also not framed yet. As per the Charge-sheet, there are in all 32 witnesses proposed to be examined by the prosecution. The trial is likely to take a considerably long time.

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. In view thereof, the following order:-

ORDER

(a) The Applicant - Amruta Swaminath *alias* Umesh Balekai be

released on bail in connection with C. R. No.525 of 2020 registered with the Paud Police Station, District - Pune on her furnishing P. R. Bond of Rs.10,000/- 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 Paud Police Station, District - Pune on the first Sunday of every month between 11.00 a.m. and 1.00 p.m. for one year and thereafter, as and when called by the Investigating officer.

(d) The Applicant shall attend the trial regularly. The Applicant shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.

(e) The Applicant shall surrender her passport, if any, to the Investigating Officer.

10. The Bail Application is disposed of accordingly.

11. 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.]