

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

BAIL APPLICATION NO. 1598 OF 2024

Pushpa Venaram Gujar	...	Applicant
Versus		
The State of Maharashtra & Anr.	...	Respondents

Mr. Shriganesh S. Sawalkar for the Applicant.
Mr. Kiran C. Shinde, APP for Respondent-State.

**CORAM: MANISH PITALE, J.
DATE : 22nd OCTOBER 2024**

P.C. :

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

2. The applicant was arrested on 4th November 2022 in connection with FIR No.0517 of 2022 dated 30th October 2022 registered at Rabale Police Station, Navi Mumbai, for offences under Sections 302 and 309 of the Indian Penal Code, 1860 (IPC).

3. The FIR was registered on a statement of the husband of the applicant. It is stated that he found both minor children in a pool of blood and the applicant herself having attempted suicide, when he reached his house. It was found that both the children were dead and they had suffered injuries by means of a sharp object. On this basis, the aforesaid offences were registered against the applicant. The investigation was completed and charge-sheet was filed.

4. The learned counsel for the applicant submits that the applicant suffers from psychiatric problems and this is evident from the material available on record, particularly medical report dated 9th September 2024, issued by the Medical Officer, Kalyan District Prison, Kalyan. He submits that the aforesaid material sufficiently demonstrates the psychological condition of the applicant. He submits that the aforesaid material does show a strong *prima facie* case in favour of the applicant, as regards her mental condition and consequently that the applicant cannot be held responsible for the actions alleged against her. He submits that insanity is a plea available to the applicant in the facts and circumstances of the present case and he relies upon the judgment of the Supreme Court in the case of ***State of Rajasthan v/s. Shera Ram, (2012) 1 SCC 602***, to contend that the applicant would eventually be acquitted on the said plea. He submits that in such a situation, the applicant having already suffered incarceration since 4th November 2022, this Court may consider enlarging her on bail.

5. On an earlier occasion, this Court had considered the aforesaid submissions, particularly the medical report dated 9th September 2024. Even if the contentions raised on behalf of the applicant were to be accepted, an important question has arisen as to who would take care of the applicant, even if she was to be enlarged on bail. In this context, the learned counsel for the applicant, on instructions, submitted that her husband i.e. the informant himself would take care of the applicant. In fact, an

affidavit sworn by the informant i.e. the husband of the applicant has been tendered in support of the said submission. The same is taken on record and marked 'X'.

6. The learned APP, on the other hand, submitted that the condition of the applicant as recorded in the said medical report is presently stable and she is taking food properly, as also the medicine prescribed by the visiting psychiatrist. It was submitted that in such a situation, it would not be appropriate to enlarge the applicant on bail, particularly when there is no one to take care of her. It was indicated in the light of the contents of the medical report dated 9th September 2024, it may not be appropriate to accept the contentions raised on behalf of the husband of the applicant i.e. the informant herein. It was submitted that this Court may consider expediting the trial, instead of allowing the present application, in the peculiar facts and circumstances of the present case.

7. This Court has perused the material on record, particularly the medical report dated 9th September 2024 submitted by the Medical Officer, Kalyan District Prison, Kalyan. It is significant to note that the said report, towards the end, has recorded that the applicant is taking treatment under the supervision of the visiting psychiatrist from the Central Hospital, Ulhasnagar and that she is taking food properly and that her behaviour is stable. But, it is significant to note that in the earlier part of the said report, reference is made to the effect of the visit of the husband of the

applicant i.e. the informant, on the mental status of the applicant. It would be appropriate to reproduce the relevant portion of the said report dated 9th September 2024, which reads as follows :

“ The Visiting Psychiatrist from Central (Government) Hospital, Ulhasnagar to prison examined the prisoner on 26.08.2023. On mental evaluation it was seen that according to staff and other inmates she was apparently alright. But in the last three weeks when her husband came to meet her, she became withdrawn, stopped talking and eating and had to be force fed. She had stopped taking bath, sat with her head down. In the last 15 days she tried to strangle herself twice, rescued by other inmates but tried to strangle herself multiple time. On examination she denies hearing voices. On mental state examination, she showed suspiciousness, fearfulness and talks in mono syllables, answers in two or three words on repeated questioning, sitting with eyes down, says that none wants to do anything for her that why want to harm herself. Her attention is reduced, and her mood is depressed and does not talk to anybody, does her work quietly. The patient was prescribed with supervised anti-psychotic medicines and to keep sharp objects away from her. She was referred to Sir J.J. Hospital, Mumbai.

The prisoner was sent to Sir J.J. Hospital, Mumbai on 06.10.2023 and was advised 24 x 7 supervision, counseling services and to continue her psychiatric medicine. The prisoner was again examined by Visiting Psychiatrist from Central Hospital, Ulhasnagar on 13.01.2024, 17.02.2024 and 16.03.2024.

The patient was again seen by Psychiatrist on 25.05.2024 with complaint of not taking proper food. On mental state examination it was observed that the patient was not eating, not talking, crying and sitting alone, mute and not answering questions. She was stressed that her husband was not coming to meet her. She was responding to all commands. The patient was referred to Sir J.J. Hospital, Mumbai by the Psychiatrist.

The patient was again seen by the Visiting Psychiatrist on 22.06.2024 and her mental examination show that her sleep and appetite was normal and depressing features had decreased and behaviour was normal.

The patient was again examined by the Psychiatrist on 13.07.2024 and her sleep and appetite were better, and behaviour was stable and depressive features decreased.

Currently the patient is under treatment as advised by the Visiting Psychiatrist. She is taking food properly, does not talk to anybody, she does her work quietly and her behaviour is stable.

***Medical Officer
Kalyan District Prison
Kalyan”***

8. A perusal of the above quoted contents of the medical report dated 9th September 2024, shows that after the husband of the applicant i.e. the informant visited her in jail, there was marked change in the behaviour and activities of the applicant. It is reported that she become withdrawn, stopped talking and she had to be force-fed. In a matter of 15 days, she tried to strangle herself twice, when she had to be rescued by other inmates. In that backdrop, she was referred to Sir J.J. Hospital, Mumbai, where she was under medical supervision.

9. Thereafter, the condition of the applicant appears to have improved and in June 2024. The visiting psychiatrist noted that her sleep and appetite had become normal and further, upon examination on 13th July 2024, the visiting psychiatrist found that the behaviour of the applicant was stable. Thereafter, it is reported

that on the date, when the aforesaid report was prepared, the applicant was taking food properly and that her behaviour was stable.

10. There is no reason for this Court to doubt the veracity of the aforesaid medical report submitted for perusal of this Court, since the above quoted report specifically shows the manner in which the applicant was adversely affected by the visit of her husband i.e. the informant herein, it would be fraught with risk to accept the affidavit filed by him to the effect that he would take care, if she is enlarged on bail. This Court is of the opinion that if the affidavit of the informant i.e. the husband of the applicant is accepted and the applicant is to join his company, it may adversely affect her mental status, which at present is reported to be stable.

11. Therefore, the contentions raised on behalf of the applicant in that regard are rejected.

12. As regards reliance placed on judgment of the Supreme Court in the case of *State of Rajasthan v/s. Shera Ram* (supra), it would still be a matter for the trial Court to determine as to whether the applicant indeed suffers from legal insanity. It is significant to note that the observations were made by the Supreme Court in a case that arose out of an appeal after the proceedings had reached finality.

13. In this situation, it would be appropriate to issue necessary

directions for expediting the trial.

14. In view of the above, the application is dismissed.

15. However, the concerned trial Court is directed to frame charge at the earliest and in any case, within 6 weeks from today. Considering the number of witnesses proposed to be examined by the prosecution, the trial shall be completed expeditiously and in any case, within a period of 1 year from today.

16. The prosecution as well as the applicant shall cooperate with the trial Court for completing the trial in the aforesaid period of time.

17. If the trial is not completed within 1 year from today, liberty is reserved for the applicant to renew her prayer for bail.

MANISH PITALE, J.