

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

BAIL APPLICATION NO. 2374 OF 2024

RubinAbibi Tajbabu Salmani

...Applicant

Versus

The State of Maharashtra

...Respondent

- Mr. Shriganesh Salba Sawalkar, (through VC) a/w Ms. Gayatri Yadav, for Applicant.
- Mr. Tanveer Khan, APP for Respondent.
- Mr. Ravindra V. Salvi, Kalwa Police Station, present.

CORAM : MANISH PITALE, J.

DATE : 06th DECEMBER, 2024.

P. C. :

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

2. The applicant is seeking bail, as she was arrested on 12th December, 2018 in connection with First Information Report No.I-467 of 2018 registered with Police Station Kalwa, District Thane, for offences under Sections 302 and 201 read with Section 34 of the Indian Penal Code, 1860 (IPC).

3. The prosecution case is that the applicant in with connivance with the co-accused person, with whom she was allegedly having an illicit relationship, caused the death of the victim. The victim in the present case was the husband of the applicant.

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4. Having heard the rival submissions, this Court finds that certain facts are admitted, i.e. the applicant was arrested on 12th December, 2018, which demonstrates that she has suffered incarceration for a period of 6 years. Although the trial has commenced, not a single witnesses has been examined, inspite of the fact that summons have been issued to first three witnesses at the behest of prosecution. It is also an admitted position that the co-accused person with whom the applicant was having illicit relationship, was granted bail on 02nd February, 2021, by this Court by Justice Prakash D. Naik, as he then was, in Bail Application No.330 of 2020. It is also noted that the present case is a case of circumstantial evidence and there is no eye witness to the incident.

5. After appreciating the case of the prosecution and the material upon which the prosecution is relying, this Court while granting bail to the co-accused person observed as follows :

“5. I have perused the documents on record. Undisputedly, there is no eye witnesses to the incident. The entire case of the prosecution is based on circumstantial evidence. Statements of witnesses recorded subsequently at the most indicate that the applicant and the co-accused who is wife of the deceased, are in relationship. However, to show that the applicant is involved in murder of the deceased except the recovery of wire, there is no other cogent evidence

against the applicant. Statement of Sachin Subhash Fatangare, police constable attached to the same police station which investigated the crime had stated that in the night of 8th December, 2018 and 9th December, 2018, applicant and the co-accused were found together at about 01:00 a.m. His statement was recorded on 20th December, 2018. The FIR was recorded on 12th October, 2019. It is pertinent to note that the said police constable was attached to the same police station, and, there is no reason for recording his statement on 12th October, 2019. The applicant is in custody for two years. There are no criminal antecedents against him. Considering the factual aspects, bail can be granted to the applicant on certain conditions.”

6. The applicant herein, being a woman, who has suffered incarceration for a period of 6 years, has no criminal antecedents and in these circumstances, this Court is inclined to allow the application, even on the ground of parity.

7. In view of the above, the application is allowed in the following terms:

- (A) The applicant shall be released on bail in connection with FIR No.I-467 of 2018 registered with Police Station Kalwa, District Thane, on furnishing P.R. Bond of ₹25,000/- with one or two sureties in the like amount, to the satisfaction of the Trial Court.

- (B) The applicant shall report to the Police Station Kalwan once in a month on first Saturday of the month, between 11:00 a.m. to 01:00 p.m., during the pendency of the trial.
- (C) The applicant shall cooperate with the Trial Court for expeditious disposal of the trial. She shall attend the proceedings before the Trial Court on each and every date, except when exempted for reasons to be recorded in writing.
- (D) The applicant shall furnish the details of her active mobile numbers and her local address to the Investigating Officer and the Trial Court within two weeks of being released on bail.
- (E) The applicant shall not influence the informant, witnesses or any other persons concerned with the present case, during the pendency of the trial.

8. In the event the applicant granted bail, violates any of the conditions recorded hereinabove, the bail granted to her would be liable to be cancelled.

9. It is made clear that the observations made hereinabove in the present order are limited to disposing of the present bail application. The Trial

Court shall proceed on merits in the present case without being influenced by the observations made hereinabove.

10. The application is disposed of.

(MANISH PITALE, J.)