

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

CRIMINAL BAIL APPLICATION NO.2850 OF 2024

Digitally
signed by
BALAJI
GOVINDRAO
PANCHAL
Date:
2024.07.18
17:28:16
+0530

Smt. Babibai Bhanudas Shirsagar ..Applicant
Versus
The State of Maharashtra ..Respondent

Mr. Akshay Bankapur, for the Applicant.
Mr. Vinit A. Kulkarni, APP for the Respondent/State.

CORAM : SARANG V. KOTWAL, J.

DATE : 16th JULY, 2024

P C.

1. The Applicant is seeking her release on bail in connection with C.R. No.14 of 2024 registered at Chandwad Police Station on 16th January, 2024 under Sections 143, 147, 148, 149, 302, 323, 324, 504 and 506 of IPC and under Section 135 of Maharashtra Police Act.

2. The Applicant is a 66 year old lady. She was arrested on 19th January, 2024. The investigation is over and the charge-sheet is filed. The prosecution case is reflected in the First Information Report itself lodged by one Sheetal Shinde in respect of the murder of one Raju @ Rajendra Shinde.

3. Heard. The informant has stated that Raju @ Rajendra Shinde was residing with his family members. The first informant

was his wife. He had another wife by the name Sunita. His other family members consisted of his parents, two daughters and a son. On 16th January, 2024, he left home for attending his office. At about 01:30 p.m., Raju called the first informant and told her that one Chanchal Kshirsagar, his mother, brother and other family members were quarreling with him near their complex. The first informant and Raju's other wife Sunita went to that spot. It is the prosecution case that the present Applicant was mother of Chanchal Kshirsagar. The informant has further stated that all the family members of Chanchal Kshirsagar including the Applicant were abusing Raju. The informant and others separated the quarrel and the Applicant's family members went to their house. The informant, Raju and other family members were standing near their complex. At about 02:30 p.m. again Chanchal Kshirsagar, Vinod and all other family members including the Applicant came to that spot carrying weapons. They were saying that Raju would not be kept alive. Piyush Sutar stabbed Raju on the chest and also gave blows on his arm. Raj Kshirsagar gave blow with knife on Raju's head. Prashant Thorat tried to intervene, but Piyush Sutar assaulted him with a weapon on his back. The informant and the others then intervened and took Raju to a hospital at Chandwad, but he was declared dead. On these allegations the FIR was lodged naming the other accused along with the present Applicant. The Applicant was arrested on 19th January, 2024. The investigation was carried out. During the investigation, the statements of the witnesses were recorded.

4. Learned counsel for the Applicant submitted that the Applicant is an old woman and she is in custody since 19th January, 2024. The investigation is over and the charge-sheet is filed. Her further custody will not serve any purpose. He submitted that the prosecution case is not true. In fact, the family members of Raju Shinde and the first informant were the aggressors. They had tried to assault the Applicant's family near their house, for which a separate FIR was lodged vide C.R. No.21 of 2024 at Chandwad Police Station under Sections 143, 147, 148, 149, 324, 504 and 506 of IPC by Vaishnavi Kshirsagar.

5. Learned APP opposed these submissions. According to him, all the accused had come to the spot with weapons and they were uttering the words that Raju would be finished, therefore, it was clear that the common object of the unlawful assembly was to commit murder of the Raju.

6. I have considered the submissions, perused the documents and the statements of many eye witnesses including the injured eye witness Prashant Thorat. Those eye witnesses are Sunita Shinde, Ravindra Mali, Yogesh Sonawane, Prakash Sonawane, Dinesh Jagdale etc. All their statements are consistent and they have narrated the incident in the same manner as is narrated in the FIR. The postmortem notes show that the deceased had suffered five injuries including a stab wound on the chest, one incised wound on the head and other incised wounds on the arm. The cause of death

was stab injury over the chest. All these show that the deceased had succumbed to the injuries caused by Piyush Sutar. Prashant Thorat had suffered a stab injury on the back. It is described as a grievous injury, but that is attributed to Piyush Sutar. Apart from Piyush Sutar, the other allegations of causing assault are against Raj Kshirsagar, who had assaulted Raju on the head with knife. Significantly, the Applicant is not attributed any particular role of causing assault either on the deceased or on the injured Prashant Thorat with any weapon. At the most, it can be argued that she was a member of unlawful assembly. However, she is an old woman and is in custody since 19th January, 2024. The common object of the assembly will have to be ultimately decided during trial. The Applicant is in custody since her arrest. The charge-sheet is already filed. Her further custody will not serve any purpose. Considering the lesser role attributed to her and her age, I am inclined to grant bail to the present Applicant. Hence, I pass the following order :-

ORDER

- i) The Applicant is directed to be released on bail on her executing PR bond in the sum of Rs.30,000/- with one or two sureties in the like amount in connection with C. R. No.14 of 2024 registered with Chandwad Police Station.

7. The Application is disposed of.

(SARANG V. KOTWAL, J.)