

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

ANTICIPATORY BAIL APPLICATION NO. 2640 OF 2024

Vaishali Chandrakant Bhosale

...Applicant

Versus

The State of Maharashtra

...Respondent

- Mr. C. Pendse a/w Mr. Mangesh Shirsat, Mr. Prashant Jadhav and Mr. Girish Shirsat i/b Fehmida Ahmad, for Applicant
- Mr. Prasanna P. Malshe, APP for Respondent.
- Mr. Popat S. Ranaware, PSI, Baramati City Police Station.

CORAM : MANISH PITALE, J.

DATE : 11th OCTOBER, 2024.

P. C. :

1. Heard learned counsel for the applicant and the learned APP for the respondent – State.
2. The applicant is apprehending arrest in connection with First Information Report No.0134 of 2024, dated 14.12.2023, registered at Police Station Supa, District Pune, for offences under Sections 307, 452 and 504 read with Section 34 of the Indian Penal Code, 1860 (IPC). Subsequently, offence under Section 302 of the IPC was added as the victim expired.
3. It is brought to the notice of this Court that anticipatory bail application of co-accused Santosh Bhiwaji Chopade, was dismissed by this Court by order dated 06.08.2024, passed in Anticipatory Bail Application No.2024 of 2024.

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4. In the said order, the facts were recorded as follows :

“3. The statement of the first informant, which led to registration of FIR, indicates the role of all the accused persons in the incident in question. It is alleged that the applicant alongwith the other accused persons, reached the house of the informant for recovery of ₹ 35 lakhs. It is stated that an amount of ₹ 30 lakhs was taken as loan by the informant from the applicant and it is in the backdrop of the aforesaid loan that the accused persons had reached the house of the informant. It is alleged that the accused persons poured petrol on the body of the informant. One of them lit the gas stove and the informant was pushed onto the gas stove, which led to his body catching fire.

4. The informant eventually expired due to the burn injuries. The statement recorded in the hospital on the date of incident, was in the nature of dying declaration, for the reason that the doctor specifically endorsed that the informant was in conscious and oriented condition while giving the statement. The aforesaid statement led to registration of FIR. Subsequently, the informant expired.”

5. The learned counsel for the applicant submitted that in the present case, there is serious doubt raised about the manner in which the FIR was registered on 14.12.2023 at 14:15 hours. Attention of this Court was invited to general diary entries made in the said police station, one dated 13.12.2023 at 20:04 hours and other on 14.12.2023 at 10:28 hours. It was

submitted that a perusal of the aforesaid general diary entries, shows that when the police became aware about the aforesaid incident on 13.12.2023 itself, it is not explained as to why the FIR was registered on 14.12.2023 at 14:15 hours.

6. A reference was made to the statement of the victim recorded on 13.12.2023, which was treated as a dying declaration and the basis for registration of the FIR. It was submitted that when the general diary entries indicated that the police was very much aware on 13.12.2023 itself at about 01:30 p.m. about the incident, the dying declaration was not recorded on 13.12.2023 and it was shown to have been recorded on 14.12.2023 at 13:08 hours.

7. It is submitted that the entire story, on the basis of which FIR was registered, can be said to be developed by the brother-in-law of the victim, when he came into the picture on 14.12.2023.

8. It was submitted that when the very sequence of events, leading to registration of the FIR, can be said to be doubtful and in the face of the fact that the applicant had no motive to cause harm to the victim, this Court may consider allowing the present application.

9. On the other hand, the learned APP submitted that the statement

of the victim, which led to registration of the FIR, attributed specific overt acts to the applicant and her presence is clearly made out from the said statement. The anticipatory bail application of the co-accused, is already dismissed and therefore, no indulgence may be shown to the applicant, because her case cannot be said to be distinguishable from that of the co-accused person.

10. There was another submission made on behalf of the applicant that there were burn injuries suffered by the applicant herein and on that basis, a submission was made that the applicant had used a gunny bag to extinguish the fire and this factor has not been investigated at all by the investigating authority. The aforesaid submission cannot be considered, for the reason that the presence of the applicant is clearly stated at the date and time of the incident and the victim having suffered burns, there is every possibility of the persons present at the time of the incident suffering certain burn injuries, when victim was burnt. No opinion can be given at this stage, either way and the said contention deserves to be rejected.

11. A perusal of the statement of the victim, which led to registration of the FIR, shows that the presence of the applicant and specific role attributed to her. In the incident the victim was burnt to death. There is a specific allegation that after the co-accused person had poured petrol on the body of the victim, the applicant switched on the Gas and then all the co-accused

persons pushed the victim on to the gas flame, due to which, he was burnt to death.

12. Therefore, it is clear that the presence of the applicant as well her active involvement in the incident is *prima facie* established on the basis of the statement of the victim, who eventually expired.

13. The doubts sought to be raised with regards to the timing of the registration of the FIR, on the basis of general diary entries is nothing but raising hairsplitting arguments at this stage itself, when anticipatory bail application is being considered. There is no substance in the said contention raised on behalf of the applicant at this stage and therefore, this Court is not inclined to show any indulgence to the applicant.

14. The application is dismissed. Needless to say, the observations made in this order are limited to deciding the present anticipatory bail application.

(MANISH PITALE, J.)