



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (BA) NO.524 OF 2024

(Shushila D/o Avdhut Kale Vs. State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. H.V. Dhage, Advocate for the applicant.
Mr. D.V. Chauhan, Public Prosecutor for the State.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- JUNE 19, 2024.

By preferring this application, the applicant is seeking bail under Section 439 of the Code of Criminal Procedure. The applicant came to be arrested on 23/02/2024 in connection with Crime No.54/2024 registered with Police Station Shegaon Rural, District Buldhana for the offence punishable under Section 302 of the Indian Penal Code.

2. The applicant is the mother-in-law of the deceased. As per the accusation, there was matrimonial dispute between the deceased and the daughter of the present applicant. On 22/02/2024, allegedly the deceased had come to their house under the influence of liquor and pelted stones and bricks on the door of the house, and therefore, the applicant came out, she has thrown the chilli powder in the eyes of the deceased and thereafter assaulted him by means of cricket bat. Due to the repeated blows, the deceased has sustained as many as 7 injuries and he succumbed to the death instantaneously. On the

basis of said report, police have registered the crime against the present applicant.

3. Learned Counsel for the applicant submitted that due to the grave and sudden provocation the alleged incident has taken place. There was neither preparation nor intention to eliminate the deceased. Now, the investigation is already completed and charge-sheet is filed. Whether it is a culpable homicide amounting to murder or not amounting to murder is a matter of evidence. At this stage, there are no criminal antecedents against the present applicant and the alleged incident has occurred due to the grave and sudden provocation, therefore, the case covers under the exception under Section 300 of the IPC. He submitted that considering that the applicant is a lady who is involved in the alleged offence due to the behaviour of the deceased. Considering all these aspects, the applicant can be released on bail.

4. Learned Public Prosecutor strongly opposed the application on the ground that it is not a case of a single injury but the applicant initially thrown the chilli powder in the eyes of the deceased and thereafter deceased was assaulted mercilessly due to the matrimonial dispute between her daughter and the deceased. Considering the direct evidence against the present applicant and the case is not covered under any of the exception, the application deserves to be rejected.

5. I have heard learned Counsel for both the sides. Perused the investigation papers from which it reveals that there was a matrimonial dispute between the daughter of the present applicant and the deceased. The deceased had been to the house of the present applicant on 22/02/2024 at about 6 to 7 p.m. under the influence of liquor and during the incident present applicant has thrown the chilli powder and thereafter assaulted mercilessly. There are repeated blows on the person of the deceased which resulted into the instantaneous death of the deceased. As far as the contention of the learned Counsel for the applicant is concerned that there was a grave and sudden provocation by the deceased, and therefore, the alleged incident has taken place is not substantiated by any material which is collected during the investigation. On the contrary, the postmortem report shows that there were in all 7 injuries found on the person of the deceased. The internal injuries sustained that there was a fracture on 3rd and 4th ribs as well as there were injuries on the person of the deceased which resulted into the instantaneous death of the deceased. Considering the direct evidence which is collected during the investigation, *prima facie* case is made out against the present applicant. In view of that, the application deserves to be rejected.

6. Hence, the application is rejected accordingly.

(URMILA JOSHI-PHALKE, J.)