



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

36 CRIMINAL APPEAL NO. 806 OF 2024

**REKHA BHAGWANSINH THAKUR
VERSUS**

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for the Appellant : Mr.Gangakhedkar Shailendra Sharadchandra
APP for Respondent/State : Mrs. Chaitali Choudhari Kutti
Advocate for Respondent No.2 : Mr. I.D.Maniyar h/f. Mr. B.P.Gonare

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CORAM : SHAILESH P. BRAHME, J.
DATE : 24th MARCH 2025

PER COURT :

1. This appeal is directed against order dated 21.06.2024 in Criminal Bail Application No.935 of 2023 rejecting plea of regular bail.

2. The appellant, her husband and son are involved in offence bearing Crime No. 0390 of 2023 registered with Vimantal Police Station, Dist.Nanded for offences punishable under Section 302 r/w 34 of I.P.C and Section 3(2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities)Act, 1989. It is alleged that respondent No.2 was informed that her son Sachin was being assaulted by appellant and others. It is further alleged that before two months of the date of incident they had threatened him for having been interfering in the marital life of brother of the informant.

3. Learned counsel Mr.Gangakhedkar appearing for appellant submits that the statements of eye-witnesses Ashok and Firoz only shows the presence of the appellant at the spot of the incident and catching hold of the collar of the deceased. The recovery of the weapon is at the instance of co-accused/Rana. The investigation is over and there is no point in keeping the appellant behind bars.

4. Learned APP Mrs.Chaitali Kutti would resist submissions on the basis of the affidavit-in-reply. She would submit that three eye witnesses are disclosing actual assault by the appellant and co-accused. Appellant has shared common intention. Her presence at the relevant time can not be doubted. The recovery of her clothes and the recovery of the weapon, albeit at the instance of co-accused would indicate the active role of the appellant.

5. Learned counsel for Respondent No.2 supports the submissions of learned APP. He would submit that offence is serious in nature. He would advert my attention to the findings recorded by the Sessions Court while rejecting the application which can not be faulted with. It is submitted that charge is framed on 21.10.2024 and evidence has commenced on 24.10.2024. Instead of granting bail, trial can be expedited.

6. I have gone through relevant papers of the investigation including First Information Report and the statements of witnesses

Ashok, Firoz and Amol. Out of that Amol and Firoz can not be said to be eye witnesses. Amol had been to the spot but after assault was committed. Appellant was present at the spot alongwith co-accused and played role in holding the accused. Actual blow was given by co-accused-Rana by iron rod and thereafter the remaining co-accused assaulted the deceased by fist and blows. There is no allegation of assault on the deceased at the instance of appellant. There is recovery of weapon at the instance of co-accused/Rana.

7. I am inclined to grant bail to the appellant. Just because appellant was seen to be present along-with other co-accused is not at this stage would sufficient to deny her bail. She was arrested on 25.11.2023. Charge-sheet was filed on 23.01.2024. Appellant being lady, she deserves leniency at this stage of the proceedings. Hence, I pass following order :

ORDER

- a) Criminal Appeal is allowed.
- b) Impugned order dated 21.06.2024 passed by the Learned Additional Sessions Judge-2, Nanded in Criminal Bail Application No.935 of 2023 is quashed and set-aside.
- C) Appellant-Rekha Bhagwansinh Thakur shall be released on bail on furnishing personal bond of Rs.30000/- (Rupees Thirty Thousand Only) with one solvent surety.

d) Appellant shall not pressurize informant or the prosecution witnesses.

e) Appellant shall co-operate with the Investigating Officer.

[SHAILESH P BRAHME, J.]

vsj..