

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1840 OF 2024

Priyanka Aakash Survade

.. Applicant

Versus

The State of Maharashtra

.. Respondent

.....

- Mr. Visshaal D. Khetre, Advocate for Applicant.
- Mr. Dinesh J. Haldankar, APP for Respondent.

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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 15, 2025

P.C.:

1. Heard Mr. Khetre, learned Advocate for Applicant and Mr. Haldankar, learned APP for Respondent.

2. Applicant is represented by Mr. Khetre on behalf of a Non-Governmental Organization called 'Dard Se Hum Dard Tak' (दर्द से हम दर्द तक) and he is espousing the cause of Applicant who is a woman indicted in the present crime as informed by him pro-bono on behalf of the NGO.

3. This is an Application under Section 439 of Code of Criminal Procedure, 1973 (for short '**Cr.P.C.**') seeking Bail in connection with C.R. No.497 of 2022 registered with Kalwa Police Station for offences punishable under Section 302 of the Indian Penal Code, 1860 (for short '**IPC**').

4. After hearing Mr. Khetre, learned Advocate for Applicant on 07.04.2025, the following order was passed:-

- “1. Heard Mr. Khetre, learned Advocate for Applicant and Mr. Dedhia, learned APP for Respondent – State.*
- 2. This is an Application under Section 439 of the Code of Criminal Procedure, 1973 seeking Regular Bail in connection with C.R.No.497 of 2022 registered with Kalwa Police Station for the offence punishable under Section 302 of the Indian Penal Code, 1860.*
- 3. In the present crime, Applicant is a woman. This Application is listed for the first time today despite it having been filed on 24.04.2024.*
- 4. Learned Advocate for Applicant would draw my attention to the fact that the incident which occurred leading to the Applicant inflicting a singular knife blow on the victim was on account of the repeated verbal altercation (वसामध्ये भांडण) which took place in the house of the Applicant on two consecutive nights beginning from 02.10.2022. Applicant in the present case in a fit rage on the spur of moment took the kitchen knife (भाजी कापण्याचा चाकु) and inflicted a knife blow in rage on the victim who was the husband of the younger sister.*
- 5. Prima facie record shows that the quarrel was on going between the family of the Applicant and family of the deceased victim. That apart, medical report and the witness statement prima facie shows that the victim was in inebriated and intoxicated mind and when he picked the quarrel late in the night, assault on him took place at about 03:00 a.m. in the morning during the time of quarrel. Having perused the entire record of the case, learned Advocate for Applicant would persuade the Court to release the Applicant on bail on the ground of long incarceration pending trial.*
- 6. Considering the fact that incident occurred due to said altercation and on the spur of moment without pre-meditation or planning by the Applicant. He would also persuade the Court to consider the fact that Applicant herself has two minor children aged 4 years and 6 years out of whom the younger child is staying with the Applicant inside the jail whereas the elder one who is 6 years old is placed in the hostel.*
- 7. Ms. Dedhia, learned APP appearing for the prosecution shall ascertain the veracity of the submissions made on behalf of the Applicant from the record of the case and accordingly apprise the role of Applicant in the crime to the Court on the next adjourned date. Considering his incarceration in prison, prosecution shall also ascertain the status of the trial and inform the same to the Court for consideration.*
- 8. In view of the long incarceration of the Application, present Application shall be heard and decided by the Court on the next adjourned date which shall be noted by the prosecution.*
- 9. List the Bail Application on Board on 15th April 2025. To be placed under the caption ‘First on Board’.”*

5. *Prima facie*, it is seen that incident has occurred on spur of the moment at 03:00 a.m. in the night on 30.09.2022 when the Applicant's sister facing repeated assault from her inebriated and intoxicated husband is when Applicant inflicted the blow with the kitchen knife on him in order to silence him. The precursor incident has been delineated in the aforesaid order.

6. Applicant is a woman requiring to provide care and support for her two minor children aged 4 years and 6 years out of whom one child is staying with the Applicant inside jail for the past more than 2 years 6 months.

7. In view of the aforesaid facts and the reasons stated in the order dated 15.04.2025, I am inclined to allow the present Application. Hence, Bail Application is allowed subject to the following terms and conditions:-

- (i) Applicant is directed to be released on bail on furnishing P.R. Bond in the sum of Rs.10,000/- with one or two sureties in the like amount;
- (ii) Applicant is permitted to furnish provisional cash bail of Rs.10,000/- for her release immediately and file undertaking that she will provide one or two sureties in the like amount of Rs.10,000/- within a period of eight weeks after her release which shall be accepted by the

Trial Court. Applicant shall provide sureties as directed;

- (iii) Before her actual release from jail, Applicant shall furnish her address where she proposes to reside after her release from jail to the concerned Police Station and also to the trial Court;
- (iv) After her release from jail, Applicant shall report to the Investigating Officer as and when called for;
- (v) Applicant shall attend the trial Court on first Tuesday of every month between 11.00 a.m. and 1.00 p.m. to mark her presence. If the first Tuesday of the said month falls on a holiday and / or non Court working day, the Applicant shall mark presence on the next working day;
- (vi) Applicant shall co-operate with the conduct of trial and attend the trial Court on all dates unless specifically exempted and will not take any unnecessary adjournments, if she does so, it will entitle the prosecution to apply for cancellation of this order;
- (vii) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;
- (viii) Applicant shall not influence with any of the witnesses or tamper with the evidence in any manner; and

(ix) In case of any infraction of the above conditions and / or two consecutive defaults in marking his attendance before trial Court, it shall attract the provisions of Section 439(2) of Cr.P.C. i.e. for cancellation of bail.

8. It is clarified that the observations made in this order are limited for the purpose of granting Bail only and I have not made any observations on merits of the case. The trial shall be adjudicated on the strength of the evidence led and strictly on its own merits being uninfluenced with any of the *prima facie* observations made herein above in this order.

9. Bail Application No.1840 of 2024 is allowed and disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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by HARSHADA
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