

Ajay

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

CRIMINAL BAIL APPLICATION NO. 4076 OF 2024

Tina Umesh Bagde	.. Applicant
Versus	
The State of Maharashtra	.. Respondent

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- Mr. Ravishankar Dwivedi , Advocate for Applicant.
 - Ms. Mahalakshmi Ganapathy, APP for Respondent – State.
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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 28, 2025.

P.C.:

1. Heard Mr. Dwivedi, learned Advocate for Applicant and Ms. Ganapathy, 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.193 of 2024 registered with Nirmal Nagar Police Station for offences under Sections 302 and 201 of the Indian Penal Code, 1860.

3. Applicant in the present case is the mother of the deceased – victim. She is 40 years old. Age of deceased – victim on date of incident i.e. 11.03.2024 was 19 years. Applicant is arrested on 12.03.2024 and is in incarceration since then i.e. 13 months and 17 days. Applicant is having two other minor children who were the siblings of deceased – victim to provide care and support and they are

presently residing with a relative of Applicant. Applicant was / is a single mother to the deceased – victim and her two other children since she lost her husband during the COVID-19 pandemic wave.

4. According to prosecution case, the alleged unfortunate incident occurred on the intervening night between 10.03.2024 and 11.03.2024. According to prosecution, Applicant strangled and throttled the deceased – victim who was her eldest daughter. Motive for the crime is disapproval of Applicant to her daughter's relationship with her boyfriend and her insistence on getting married to him against her wish. Precursor to the incident happens to be the deceased – victim daughter having tattooed and engraved the name of her boyfriend on her hand and love bite tattoos on her neck because of which a verbal altercation took place between Applicant and deceased – victim on the night of 10.03.2024.

5. Prosecution case is based upon direct evidence of two eye witnesses namely the younger sister of the deceased – victim aged 17 years old and her younger brother Durgesh aged 11 years old. Their statements are appended at page Nos.52 and 53 respectively. Both their statements are identical. They have categorically narrated the facts that on the night of alleged incident, a severe quarrel took place between Applicant and her deceased – victim daughter when Applicant expressed her strong disapproval for permanently engraving the name

of her boyfriend on her hand and she insisting on marrying him. They both have stated that the altercation between them started at about 2:30 hours of 11.03.2024 and was carried on well into the night with a loud noise. They have stated that the quarrel between them took a physical turn to the extent that their sister i.e. deceased – victim bit Applicant's little finger of her left hand in a fit of rage and pushed her leading to a hard fall on the ground and several injuries caused to her head and face and in retaliation Applicant after getting up held the deceased - victim by the scruff of her neck which lasted for sometime right in front of their eyes. They have next stated that after sometime deceased – victim was lying unconscious and unmoved on the bed and the Applicant panicked and immediately called her brother residing in the vicinity to come home and check on her.

6. Ms. Ganapathy, learned APP has referred to and relied upon the statement of first informant neighbour and also statement of Applicant recorded by prosecution wherein Applicant has stated that her daughter - deceased – victim became unconscious due to a bout of fits which essentially was to suppress the alleged incident in question. Learned APP would vehemently submit that when body of deceased - victim was brought to hospital after being informed to police on phone about death of victim, it was initially informed by Applicant to Hospital authorities that her daughter had a fall and sustained injury to her head because of an episode of fits which she was suffering from

which led to her death. Prosecution is relying on the fact that there are two injuries noticed on the deceased – victim's body, one above her left eye and certain abrasions below her nose and scratch marks on her body. The PM Report states that primary cause of death could be due to throttling of her neck and strangulation. Hence learned APP would submit that considering the gravity of crime and conduct of Applicant of attempting to suppress the crime and mislead investigation into believing that death of her daughter was a natural occurrence caused due to head injury suffered due to fall is such that it would dis-entitle Applicant to be released on bail.

7. I have heard Mr. Dwivedi, learned Advocate for Applicant and Ms. Ganapathy, learned APP for State and with their able assistance perused the record of the case.

8. *Prima facie* case of prosecution is based on direct evidence of two eye-witnesses namely son and younger daughter of Applicant whose statements have been delineated herein above. The motive and cause of action as stated therein is however crucial. It is seen that there was a physical and verbal quarrel which took place between the mother and daughter i.e. deceased - victim on the fateful night of 10.03.2024. Record shows that Applicant also suffered injuries namely her daughter biting off the little finger of her left hand in the scuffle which ensued and Applicant also having received head injuries on her

face and head. The reason for the same being the physical scuffle between them on the reluctance of Applicant approving her relationship with her boyfriend rather her love relationship with him. It is seen that the two siblings of victim were both present when the entire incident unfolded in the house. Statements of both of them have been recorded by prosecution and *prima facie* there is no reason to disbelieve the same. This is because prosecution has also recorded statement of the deceased – victim's boyfriend which is appended at page No.57 of Application. In that statement he has stated that he knew Applicant's daughter i.e. deceased - victim for the past 8 months and both of them were in a love relationship and had travelled together to Shirdi and Aurangabad on two separate occasions to their relatives's place. He has stated that deceased – victim girl was introduced to his family by him and they both decided to get married to which she had agreed. He has stated that the alliance was not approved by her mother i.e. Applicant. He has stated that both of them had engraved love-bite tattoos on their respective necks and the victim had tattooed his name on her left hand.

9. The material which is placed on record in the charge-sheet *prima facie* supports the case that there was a love relationship between the deceased – victim and her boyfriend which was the reason for the quarrel on 10.03.2024. Statement of the 17 year old younger sister of the deceased – victim and her 11 year old younger brother

prima facie corroborate the aforesaid theory.

10. In the above background and on the basis of material placed in the charge-sheet whether further custody of the Applicant is warranted in view of her alleged role in the present crime is what I am called upon to decide in the bail application.

11. It is seen that in so far as the actual incident is concerned, it was a result of the precursor incident and the physical quarrel which ensued between Applicant and her daughter i.e. deceased – victim which escalated to such an extent that it became a physical altercation leading to injuries suffered by both of them. This was infact witnessed by the two eye-witnesses. The alleged incident in question of throttling the deceased – victim if considered in the backdrop of the material placed on record cannot be said to be premeditated or planned or to that extent intentional. Though as a result of the alleged unfortunate incident a life has been lost but no mother would wish for such an outcome. Applicant being a single mother/parent would have possibly acted over-cautiously in the peculiar facts of the present case. The Applicant having been bitten and pushed to the ground by deceased – victim and receiving head and facial injuries was the real precursor for Applicant to retaliate, *prima facie*, without knowing the result of such a harsh retaliation on her own daughter. Hence on *prima facie* material and observations delineated herein above, I am inclined to

release the Applicant on bail. Applicant is a woman, a mother, has two children to provide care and support, is a single mother to them and the *prima facie* facts discussed herein above impel me to release the Applicant on bail.

12. Needless to state that the complicity of Applicant in the present crime shall be proved by the prosecution at trial. Hence the Bail Application stands allowed on 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 four 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 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 her attendance before trial Court, it shall attract the provisions of Section 439(2) of Cr.P.C. i.e. for cancellation of bail.

13. 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.

14. Bail Application is allowed and disposed.

[MILIND N. JADHAV, J.]

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by AJAY
TRAMBAK
UGALMUGALE
Date: 2025.04.28
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