

Ajay

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

CRIMINAL BAIL APPLICATION NO. 4276 OF 2024

Sunita Dharmavir Marotiya @
Sunita Dharamvir Marutiya

.. Applicant

Versus

The State of Maharashtra

.. Respondent

-
- Mr. Shrijeet V. Raorane, Advocate for Applicant.
 - Ms. Savita M. Yadav, APP for Respondent – State.
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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 07, 2025.

P.C.:

1. Heard Mr. Raorane, learned Advocate for Applicant and Ms. Yadav, 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.214 of 2023 registered with Central Police Station, Ulhasnagar for the offences punishable under Sections 302, 307, 323, 324, 504, 506(2) and 120-B read with 34 of the Indian Penal Code, 1860 (for short '**IPC**') and Sections 37(1) and 135 of the Maharashtra Police Act, 1951.

3. Applicant is arraigned as Accused No.4 in the present crime. She is a 57 year old woman. There are total 4 accused persons. Accused No.1 is her son-in-law and Accused Nos.2 and 3 are her sons.

The victim in the present case is the brother-in-law of the present Applicant. He is the younger brother of the husband of the Applicant.

4. *Prima facie* it is borne out from the record that there was a property dispute because of which the family members of the Applicant were incensed in view of the victim having disposed of one of the family property in which the Applicant's husband had a 1/3rd share. In that view of the matter, the precursor quarrel occurred on 24.03.2023 in the evening at 08:30 p.m., on which date the families of Applicant and victim had a bitter scuffle. In that scuffle, Applicant, her daughter and Accused No.3 were man-handled by the family members of the victim. Present Applicant suffered grievous injury to her hand and was hospitalised for treatment for a few days.

5. In so far as the Applicant is concerned, the admitted position is that because of that incident she had to be admitted for nursing a broken hand in the Central Hospital, Ulhasnagar for treatment. At the time when the incident in question occurred on 31.03.2023 she was admittedly in the hospital. Incident occurred on the morning of 31.03.2023 when victim intervened in the quarrel which once again escalated between the family members and in that quarrel victim was attacked by Accused Nos.1, 2 and 3 fatally. The said scuffle escalated twice between the parties at 05:30 a.m. and 06:15 a.m. at two different locations in Ulhasnagar.

6. *Prima facie* it is seen that during both the aforesaid incidents Accused persons namely Accused Nos.1, 2 and 3 followed the victim and they were constantly hurling abuses on him which led to the verbal altercation and scuffle leading to the incident in question whereby Accused persons inflicted blows with sword and stick on the victim leading to his death.

7. During the aforesaid incidents *prima facie* and admittedly Applicant was not physically present which is clearly borne out from the record. Case of the prosecution as argued by Ms. Yadav, learned APP for the State is that Applicant was one of the conspirators and she incited the Accused Nos.1, 2 and 3 to commit the crime. However there is nothing incriminating placed on record for me to *prima facie* arrive at that conclusion. Admittedly when Applicant herself was admitted in the hospital for treatment for her broken arm due to the precursor incident which occurred on 24.03.2023, the role of the Applicant *prima facie* cannot be seen in the main incident. The complicity of Applicant in the crime can be proved by prosecution at the time of trial in accordance with law. Hence in view of the above *prima facie* observations, Applicant has made out a case for grant of bail.

8. 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.25,000/- with one or two sureties in the like amount;
- (ii) Applicant is permitted to furnish provisional cash bail of Rs.25,000/- for her release immediately and file undertaking that she will provide one or two sureties in the like amount of Rs.25,000/- 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 his attendance before trial Court, it shall attract the provisions of Section 439(2) of Cr.P.C. i.e. for cancellation of bail.

9. 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.

10. Bail Application is allowed and disposed.

[MILIND N. JADHAV, J.]

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