

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 5394 OF 2024

Sunita Guddusingh Yadav

.. Applicant

Versus

The State of Maharashtra

.. Respondent

.....

- Mr. S.S. Sawalkar for Applicant
- Ms. Mahalakshmi Ganapathy, APP for Respondent No. 1 - State

.....

CORAM : MILIND N. JADHAV, J.

DATE : MARCH 26, 2025

P. C.:

1. Heard Mr. Sawalkar, learned Advocate for Applicant and Ms. Ganapathy, learned APP for Respondent No. 1 - State.

2. Applicant - accused has filed the present Application for regular bail under Section 439 of the Code of Criminal Procedure, 1973 (for short, "**Cr.P.C.**") in connection with C.R. No. 10/2020 registered with Badlapur Police Station for the offences punishable under Sections 302 & 201 of the Indian Penal Code, 1860 (for short, "**IPC**").

3. Pursuant to the order dated 11.03.2025, learned APP placed on record the Prisoner's Medical Report dated 25.03.2025 issued by the Chief Medical Officer of Kalyan District Prison Hospital. Perusal of the said report *prima facie* shows that Applicant incarcerated in prison has been examined by a Psychiatric Panel and she has been also advised by the experts from Sir JJ Group of Hospitals to take

treatment for psychiatry / psychiatric evaluation. Though steps have been taken by the Prison Hospital to refer the Applicant to Sir JJ Group of Hospitals repeatedly for the past one year which can be seen from the number of visits and referral note stated in the report, considering the long incarceration of the Applicant in the present crime and the Applicant being a woman, present Bail Application is taken up for hearing.

4. Applicant before me is a woman indicted in a crime for committing the murder of her husband. It is stated in the FIR that on 13.01.2020, Applicant poured petrol on her husband and set him on fire. Perusal of the record *prima facie* shows that there is no eye witness to the incident and indictment of Applicant is on the basis of circumstantial evidence. She is in incarceration for the past 5 years, 2 months and 14 days. *Prima facie* record shows that the deceased victim was an alcoholic and used to abuse the Applicant and ill-treated her, this being the reason according to the prosecution case against her.

5. Mr. Sawalkar has referred to and relied upon the decision of the Supreme Court in the case of ***Pushpa Venaram Gujar Vs. The State of Maharashtra***¹ in somewhat similar circumstances where there were two deaths caused by the accused person therein who was woman and

1 Order dated 24.03.2025 passed in Petition for Sepcial Leave to Appeal (Cri) No. 2768/2025

she was in incarceration from October 2022 onwards. The Supreme Court observed about the history of mental health issues experienced by the said accused therein and held that it deserves to be noticed and in that view of the matter considering the peculiar facts and circumstances of that case without expressing any opinion on merits granted bail to her. In the present case also incarceration of the Applicant in jail is since 13.01.2020 and as of today she has undergone a period of detention for 5 years 2 months & 14 days. Considering the probability that prosecution would be examining 31 witnesses as stated in the chargesheet and the charge not having been framed, the commencement and completion of the trial is a distinct uncertainty. Hence in the peculiar facts of the present case, *inter alia*, medical condition of Applicant which is duly certified by the report dated 25.03.2025 submitted by the Chief Medical Officer, Kalyan District Prison, the Applicant is directed to be released on bail. 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. 15,000/- with one or two sureties in the like amount;
- (ii) Before her actual release from jail, Applicant shall furnish an undertaking giving details of her family members / guardian and address where she proposes to reside and

who shall take care of her due to her medical condition after her release from jail to the trial Court;

- (iii) After her release from jail, Applicant shall report to the Investigating Officer as and when called for;
- (iv) 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;
- (v) 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;
- (vi) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;
- (vii) Applicant shall not influence with any of the witnesses or tamper with the evidence in any manner; and
- (viii) 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.

6. 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.

7. Bail Application is allowed and disposed.

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[MILIND N. JADHAV, J.]

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