

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 1408 OF 2025

Kirti Majrya @ Manjit Kale

...Applicant

Versus

The State of Maharashtra

...Respondent

Ms. Bhagyashri R. Mangale, learned Advocate for the Applicant.
Ms. Madhavi H. Mhatre, learned A.P.P. for the State/Respondent.

CORAM : ASHWIN D. BHOBE, J.
DATE : 19th JUNE 2025.

P.C. :

1. Heard Ms. Bhagyashri Mangale, learned Advocate for the Applicant and Ms. Madhavi Mhatre, learned A.P.P. for the State/Respondent.

2. By the present Application filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (“**BNSS**” for short), the Applicant is before this Court seeking regular bail in connection with Crime No. 863 of 2023 registered with Karmala Police Station at Solapur Rural for the offence punishable under Sections 302, 143, 147, 148 and 149 of the Indian Penal Code, 1860 (“**IPC**” for short). The said crime is registered as Sessions Case No. 22 of 2024 and is pending before the learned Additional Sessions Judge at Barshi, District-Solapur.

3. This is a case, wherein a minor (5 years old) is apparently

made to suffer vicarious imprisonment, for the crime allegedly committed by his mother/Applicant. He is in jail with the Applicant since the age of 3 years.

4. There are five Accused in the abovesaid crime. Applicant is the Accused No. 5.

5. Case of the prosecution is that the Applicant, with the assistance of four other accused persons, have committed murder of her husband Majrya @ Manjit Kale by strangulation. Motive as per the prosecution case for committing the said murder is the matrimonial disputes between the Applicant and the deceased.

6. Applicant was arrested on 19th November 2023 and since then she is in jail.

7. Ms. Bhagyashri Mangale, learned Advocate for the Applicant submits that though the prosecution claims of their being a eye witness to the crime, the statement of said person, alleged to be the eye witness, has been recorded after 15 days of the offence being committed. She submits that there is no material available on record implicating the Applicant in the said crime. She submits that other two accused, i.e., Accused Nos. 1 and 2 have been released on bail by this Court in Criminal Bail Application Nos. 2220 of 2024 and 2221 of 2024 respectively (Page Nos. 103 to 108 of the paper-book). She submits that considering the Applicant being a woman and in jail with a minor child, the Applicant be enlarged on bail.

8. Ms. Madhavi Mhatre, learned A.P.P. for the State/Respondent

submits that the Applicant and her family committed murder of the deceased as he was ill-treating the Applicant. She submits that the case of the prosecution is based on the statement of witnesses, i.e., Mr. Ishwar @ Kailash Dattatray Gosavi and Mr. Amol Dain, who have implicated the Applicant in the said crime. She submits that delay in recording their statements would not be a ground to disbelieve them. She submits that the recoveries have been made. She submits that charge-sheet is filed. She fairly states that since arrest of the Applicant from 19th November 2023, the minor child (son) is with the Applicant.

9. I have perused the records with the assistance of learned Advocates of the parties.

10. Prosecution relies on the statements of Mr. Ishwar @ Kailash Dattatray Gosavi and Mr. Amol Dain. Ms. Bhagyashri Mangale, learned Advocate submits that the said two persons gave statements after more than 15 days of the commission of alleged offence. No probable explanation has come forward in their statements as to why they were silent for more than 15 days and the reason they did not inform the said fact either to the police or the father of the deceased immediately.

11. Jayabai Hunaji Pawar (Accused No. 1) and Daivajit @ Dahivajeet Jayya Pawar (Accused No. 2), the family members of the Applicant, who are similarly placed like the Applicant, have been released on bail.

12. Minor son of the Applicant for none of his fault had to stay in jail with his mother for almost 18 months. The jail environment is

certainly not congenial for development of children. Considering the case from the minor's point of view, there is no principle of criminal law, which contemplates vicarious imprisonment of a minor.

13. *Prima facie* in the absence of any sufficient evidence against the Applicant, considering the Applicant being a woman with a minor child being incarcerated since 19th November 2023, charge-sheet being filed after completion of investigation and considering the second *proviso* to Section 480(1)(ii) of the BNSS, further custody of the Applicant would not be necessary. Hence, the Applicant is entitled to bail.

14. The present Bail Application is allowed on the following conditions :-

- a. Applicant is directed to be released on bail in connection with Crime No. 863 of 2023 registered with Karmala Police Station at Solapur Rural for the offence punishable under Sections 302, 143, 147, 148 and 149 of IPC on executing PR. Bond in the sum of Rs. 25,000/- (Rupees Twenty-Five Thousand Only) with one or two sureties in the like amount, to the satisfaction of the learned Additional Sessions Judge, Barshi.
- b. Applicant shall not influence or threaten any witnesses or tamper with the evidence.

- c. Applicant shall co-operate and shall regularly attend the trial before the concerned Court as and when summoned and the date is fixed, unless exempted by the learned Trial Court.

15. Criminal Bail Application No. 1408 of 2025 stands disposed of in the above terms.

[ASHWIN D. BHOBE, J.]

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