

VRJ

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

**BAIL APPLICATION NO.1981 OF 2025**

Sana Alias Sona Habibur Rehman Khan ... Applicant

**V/s.**

The State of Maharashtra ... Respondent

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Mr. Arvind Rambachan Singh with Seema S. Pawar  
i/by Arvind Law House for the applicant.

Ms. Rajashree V. Newton, APP for the State.

Mr. Mushahid Khan i/by Ms. Shabnam Shaikh for  
original complainant.

Mr. Ajinath Funde, PSI, Bandra Police Station is  
present.

**CORAM : AMIT BORKAR, J.**

**DATED : JULY 23, 2025**

**P.C.:**

1. The present application for bail is filed by the applicant under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as "BNSS"), seeking her release on regular bail in connection with Crime No. 1813 of 2024, registered at Bandra Police Station. The offences alleged against the applicant are punishable under Sections 103(1), 115(2), 118(1), 352, 351(2), and 3(5) of the Bharatiya Nyaya Sanhita, 2023 (hereinafter referred to as "BNS").

2. As per the case of the prosecution, the incident arose out of a domestic dispute between the families of the informant and the

applicant regarding the use of a common washroom in a residential premises. It is stated that the present applicant had earlier lodged a complaint against the informant's family at the concerned police station. It is further alleged that soon thereafter, a physical altercation took place between the two families. During the said incident, co-accused Habibur Rehman Khan allegedly assaulted one Kamran on his head, resulting in him falling down. So far as the present applicant is concerned, it is alleged that she assaulted a witness, namely Sadiken, with a bamboo stick, causing him simple injury. The prosecution has also attributed to the applicant the role of abetting the murder by allegedly calling upon her husband to kill the deceased. The applicant came to be arrested on 8th December 2024, and has been in custody since then.

3. Learned counsel appearing for the applicant submitted that the alleged role of the applicant, even according to the prosecution, is limited to having uttered words which may, at the highest, amount to instigation or abetment. It was further argued that the only act of physical assault alleged against her is that of causing simple hurt to one witness, namely Sadiken, by use of a bamboo stick. It was pointed out that the applicant is a woman, and has been in custody since 8th December 2024. Importantly, it is submitted that the applicant has no prior criminal antecedents. On these grounds, it is urged that the applicant deserves to be enlarged on bail, especially considering the limited nature of the allegations against her and the fact that she is a female accused.

4. On the other hand, the learned Assistant Public Prosecutor

appearing for the State, as well as the learned counsel representing the victim's family, strongly opposed the grant of bail. It was contended that the offence is of a serious nature, having culminated in the death of a person. According to the prosecution, the applicant actively participated in the commission of the offence by abetting her husband to assault the deceased, and she also caused injuries to a prosecution witness. It was, therefore, submitted that the applicant's role cannot be treated as minor or peripheral, and that grant of bail at this stage may prejudice the ongoing investigation or trial. Hence, it is prayed that the bail application be rejected.

5. I have carefully considered the rival submissions advanced by the learned counsel for the applicant, the learned APP for the State, and the learned advocate appearing on behalf of the victim. I have also perused the material placed on record, including the FIR, statements of witnesses, and the nature of allegations attributed to the present applicant.

6. At the outset, it is to be noted that the specific role attributed to the applicant is of utterance of certain words, which, as per the prosecution, amount to abetment. The material on record indicates that the fatal blow was allegedly inflicted by the co-accused, and not by the present applicant. So far as the physical assault by the applicant is concerned, the same is alleged to have caused a simple injury to one of the witnesses, namely Sadiken, by use of a bamboo stick. There is no allegation that the applicant was armed with any deadly weapon or that she inflicted any grievous injury.

7. Furthermore, the applicant is a woman and has been in custody since 8th December 2024, i.e., for a considerable period. There are no criminal antecedents attributed to her, and it is not the case of the prosecution that she poses any threat to the safety of witnesses or is likely to abscond. The trial is yet to commence and, in all probability, it may take some time before evidence is led.

8. It is also well settled that bail is the rule and jail is an exception, especially when the applicant is a woman and the allegations against her are not of a direct and grave nature. The Supreme Court has time and again emphasized the importance of considering gender, nature of role, and period of incarceration while deciding applications for bail.

9. In view of the above, and taking into account the limited role of the applicant, the nature of injury, her gender, absence of criminal antecedents, and the fact that she has been in custody for over 7 months, this Court is of the considered opinion that the continuation of her custody is not warranted at this stage. It is clarified that the observations made herein are prima facie in nature, restricted to the adjudication of this bail application, and shall not influence the trial.

10. Hence, the following order is passed.

- i) The bail application is allowed;
- ii) The applicant Sana Alias Sona Habibur Rehman Khan is directed to be released on regular bail in connection with Crime No. 1813 of 2024 registered with Bandra Police

Station for offences punishable under Sections 103(1), 115(2), 118(1), 352, 351(2) and 3(5) of the Bharatiya Nyaya Sanhita, 2023, upon furnishing a personal bond of Rs.25,000/- (Rupees Twenty Five Thousand only) with one or more solvent sureties in the like amount, to the satisfaction of the Trial Court, subject to the following conditions:

- a) The applicant shall not tamper with the evidence or attempt to influence any witness.
- b) The applicant shall not directly or indirectly contact the relatives of the deceased.
- c) The applicant shall appear before the Trial Court on every date of hearing unless prevented by sufficient cause.
- d) The applicant shall not leave the territorial jurisdiction of the Trial Court without prior permission.
- e) The applicant shall not indulge in any criminal activity during the pendency of the trial.
- f) Any breach of these conditions shall result in the prosecution moving for cancellation of bail before the Trial Court.

11. The bail application is allowed and disposed of.

**(AMIT BORKAR, J.)**