



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (BA) NO. 763/2025

Mahisha w/o. Naresh Kamadi

Vs.

State of Maharashtra and Anr.

.....
Office Notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders

Court's or Judge's order

.....
Mr. C. S. Dharmadhikari, Advocate for Applicant.
Mr. A. J. Gohokar, A.P.P for Non-applicant/State.

CORAM : MRS. VRUSHALI V. JOSHI, J.

DATED : 17.09.2025

1. The applicant along with other six accused arrested in Crime No.385/2024 registered with Police Station, Mul District Chandrapur for the offences punishable under Sections 189(2), 191(2)(3), 190, 109 and 61(2) of the Bharatiya Nyaya Sanhita, 2023, Section 135 of the Maharashtra Police Act and Section 4 read with Section 25 of the Arms Act.

2. It is alleged that the applicant hatched a criminal conspiracy and committed murder of one Prem Kamdi by forming an unlawful assembly along with other accused. Three persons got injured and one of them Prem Charan Kamdi succumbed to the injuries during the course of treatment. Therefore, the offence punishable under Section 103(1) of the Bharatiya Nyaya Sanhita, 2023 is registered against all the accused persons.

3. It is the case of the prosecution that in the festival of Goddess Sharada, in the locality of Panchasheel Ward, Mul on 13.10.2024 a communal feast was organized

for the residents of the locality. On the date of incident at about 8.30 p.m. during the feast, Baban Kamdi arrived at his house. He was doing the work of selling vegetables. He saw that two-wheeler of the husband of the applicant was parked in front of the gate of his house, as it was difficult for him to put his vegetable cart inside his house, he moved the two-wheeler which belonged to the husband of the applicant. As the vehicle was moved, the applicant and her husband started quarreling with Baban. After hearing the quarrel, the residents of the locality intervened and pacified the situation. It is alleged that at that time, the applicant gave threats to Baban Kamdi and other onlookers with dire consequences within a half hours. It is further alleged that at about 10.00 p.m., two brothers of the applicant came to the locality along with three unknown persons and started quarreling with Baban Kamdi. The quarrel escalated into a violent confrontation between both the parties and in the course of which the applicant along with her brothers assaulted Prem Charan Kamdi, Swapnil Subhash Deshmukh and Avinash Chandrabhan Kamdi with sharp weapons. All of them were taken to Hospital at Mul. As Prem was heavily injured, he was referred to Government Hospital and during the transit he succumbed to his injuries. Thereafter, on 14.10.2024 at about 5.40 a.m. the applicant was arrested by the non-applicant Police Station. The charge-sheet was filed in this case.

4. The learned Counsel for the applicant has stated that the applicant was arrested before sunrise at 5.40 a.m, which is evident from the charge-sheet. The time of arrest is

5.40 a.m.. The lady Police Officer or Constable was not with the applicant. There is discrepancy in the timing of arrest. The first Medical Report shows that at about 2.20 p.m. she was arrested. Arrest report shows the time of arrest at 15.11. Nowhere it is mentioned that the lady Police or lady Police Constable was with her. Therefore, it is not mentioned anywhere when she was taken in custody, therefore, the provisions of Section 46 of the Code of Criminal Procedure and 43(5) of Bhartiya Nagarik Suraksha Sanhita are not followed.

5. It is further argued that there is no even a shred of incriminating material against her to even suggest that she was part of any criminal conspiracy to commit the murder of the deceased. In fact, the entire prosecution case against the present applicant seems to be concocted, false and baseless. The applicant has not hatched any criminal conspiracy to commit the murder of the deceased. The applicant had absolutely no motive to kill the deceased. She or even her husband admittedly did not have any quarrel or altercation with the deceased nor did she have any previous enmity or business with him. Therefore, there could have been no reason or occasion for the applicant to hatch a conspiracy to kill the deceased.

6. The applicant is having a daughter of two years age, who is suffering from the cerebral palsy and intellectual disability and she needs the care of her mother. Hence, prayed to release the applicant on bail.

7. The learned A.P.P. opposed the application stating that from the statements of the witnesses it reveals

that the applicant has played a major role in said offence as she has called the accused Sachin and Rajesh and instigated them to commit the offence. She has also assaulted Charan Kamde who has suffered grievous injuries. The statements of eye witness clearly reveal the role of applicant. She has also assaulted with fists and blows to one Achal. She was an active participant in commission of said offence which has resulted in death of the victim and also causing injuries to various other persons. The applicant is the main accused as she has not only instigated the other accused persons to assault the deceased and other injured persons but also herself assaulted Charan Kamde by means of a knife. The Investigating Agency has collected sufficient evidence to prove the involvement of the applicant in the said offence.

8. About her arrest the additional affidavit is filed on record by the Assistant Police Inspector along with the extract of General Diary wherein the time of arrest is mentioned at 14.13 and it was in the presence of lady constable. In the gist, it is mentioned that she was taken in custody in presence of lady constable. Her Bakkal No.741 is mentioned in General Diary Details. In Arrest Form, the time is mentioned as 15.11. She was produced by the WHC Seema, Bakkal No.741 before the Medical Officer. The document for medical examination of the accused also shows that the Police Constable Seema Nishad, Bakkal No.741 has produced her. As the other co-accused were arrested at early hours and due to copy paste or it is a typing mistake, which is stated by the Assistant Police Inspector on affidavit needs to be considered. The role of this applicant is main. Hence,

prayed to reject the application.

9. Heard both the learned Counsel for the respective parties.

10. The emphasis of the applicant was on timing of arrest and the lady constable was not present there. Before sunrise at 5.40 a.m., she was arrested as per Final Report. On perusal of the documents, it appears that there is discrepancies in the time mentioned in all the documents. The Medical Report shows that she was arrested at 2.20 p.m.. As per Final Report, she was arrested at 5.40 a.m. and the General Diary shows that she was arrested at 2.13 p.m. As per the General Diary Details, the Lady Police Constable was there. When she was taken to medical examination in Hospital, she was taken by the Lady Head Constable. The Bakkal number is mentioned in the paper matches with the Station Diary. As it is stated by the Assistant Police Inspector on affidavit that it was the typing mistake in the Final Report as all other accused persons were arrested at that time and, therefore, it is by mistake mentioned said time. From other documents it appears that she was arrested in the afternoon and was taken for medical examination in the afternoon. The lady constable was there at the time of the arrest. Therefore, this ground is not available to the applicant to release on bail.

11. On perusal of the charge-sheet it appears that she is the person who has instigated the crime. She has given the threat about the dire consequences and immediately called her brothers. She has taken active participation in the crime. Assaulted with knife to one of the injured. Whether

the motive to commit the murder of Prem Charan was there, will be decided in the trial. There are number of witnesses who have stated about the role played by this applicant. Two incidents are there. In earlier incident, she has given the threats which come true within a period of few hours. Though the applicant is having small child, considering her revengeful act, this is not a fit case to release the applicant on bail. Hence, the application is rejected.

(MRS.VRUSHALI V. JOSHI, J.)