



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

CRIMINAL APPLICATION (BA) NO.1189 OF 2024
(Rukhsana Parveen w/o Abdul Wasim Vs. State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. S.V. Sirpurkar, Advocate for the applicant.
Mr. M.K. Pathan, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- APRIL 22, 2025.

By this application, the applicant is seeking bail as he came to be arrested on 09/07/2024 in connection with Crime No.274/2024 registered with Police Station M.I.D.C. Akola, District Akola for the offences punishable under Sections 302 read with Section 34 of the Indian Penal Code.

2. On 04/07/2024, informant Head Constable Ashok Marathe lodged First Information Report alleging that on 03/06/2024 in the police station, the information was received that deceased Fatema Wasim aged about 11 years was brought to the hospital for treatment. She was declared dead on arrival. Merge Report bearing No.23/2024 was registered under Section 174 of the Code of Criminal Procedure. In the Post Mortem Examination, unnatural death was revealed. In the further enquiry of death it is revealed that there were injuries on the dead body, cause of death is Asphyxia due to smothering. In the enquiry it was revealed that deceased was killed by

smothering. On the basis of the said allegations, first information report was registered against the present applicant along with the co-accused who is her husband for the offence punishable under Section 302 read with 34 of Indian Penal Code.

3. Learned Counsel for the applicant submitted that the deceased is the daughter of the present applicant. She was suffering from ailment as she has complained about the stomach ache and also having feeling of vomiting. As no doctor available at Babhulgaon Jahangir she was taken to the Government hospital at Akola wherein she was declared dead. He submitted that even accepting the allegation as it is there is no motive to commit the murder of her own daughter for the present applicant. The statement of brother of the deceased is also recorded which also nowhere discloses any involvement of the present applicant in the commission of the crime is concerned. He further invited my attention towards the various statements of the witnesses and submitted that none of the statements discloses the involvement of the present applicant as far as the death of the deceased is concerned. The deceased is the daughter of the present applicant and no intention or motive reveals from the investigation papers. Now, investigation is already completed and charge-sheet is filed, further incarceration of the applicant is not required. In view of that, she be released on bail.

4. Learned APP strongly opposed the said application on the ground that considering the death of the deceased is occurred in the house wherein she was residing along with the present applicant and her father and there is no third person's intervention in the house, therefore, the *prima facie* material shows the involvement of the present applicant in the alleged incident. Considering the nature and gravity of the offence, the application deserves to be rejected.

5. I have heard learned Counsel for both the sides. Perused the investigation papers from which it reveals that the deceased is the daughter of the present applicant. On earlier date, she has complained about the stomach ache, therefore, she was taken to the hospital and she has also complained about the vomiting. It also reveals from the investigation papers that some noise was coming from her throat but as the doctor was not available, she was taken to the Government Hospital at Akola and she was declared dead. On perusal of the various statements of the witnesses nowhere reveals there was any dispute as to the ailment of the deceased. The statement of the son of the present applicant and the brother of the deceased also nowhere discloses that there was any reason to commit the murder of the deceased. Thus, at this stage, admittedly, as to the involvement of the present applicant, no sufficient material is brought on record. The investigation is already completed and charge-

sheet is filed. The involvement of the applicant itself is doubtful. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass the following order:

(i) The application is allowed.

(ii) The applicant – Rukhsana Parveen w/o Abdul Wasim in connection with Crime No.274/2024 registered with Police Station M.I.D.C. Akola, District Akola for the offences punishable under Sections 302 read with Section 34 of the Indian Penal Code, be released on bail on executing PR. Bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(iii) The applicant shall furnish her detailed address with address proof and the names of her two relatives with their address proof, before the investigating agency.

(iv) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case either personally or by way of electronic media.

(v) The applicant shall attend the proceedings before the trial Court without seeking any exemption unless there are exceptional circumstances.

6. The contravention of any of the condition would lead to the cancellation of bail.

7. The application stands disposed of.

8. The trial Court shall not be influenced by the observation made by this Court which is only for the purpose of bail.

(URMILA JOSHI-PHALKE, J.)

**Divya*