

AGK

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

BAIL APPLICATION NO.868 OF 2025

Ruksana Arshad Ali Shaikh ... Applicant

V/s.

The State of Maharashtra ... Respondent

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Mr. Vivek Nishad with Mr. Vishal Khetre, Mr. Ganesh Nagargoje and Mr. Siddharth Bhangle i/by Mr. Prakash Salsingkar for the applicant.

Ms. Mahalaxmi Ganapathy, APP for the State.

Mr. Nitin Pagar, PI, Pydhonie Police Station, is present.

CORAM : AMIT BORKAR, J.

DATED : JUNE 12, 2025

P.C.:

1. This is a bail application filed under Section 483 of the Bhartiya Nyaya Sanhita, 2023 ("BNS", for short). The applicant is seeking release on bail in connection with Crime Register No. 668 of 2024 registered with Pydhonie Police Station. The said offence concerns serious charges punishable under Sections 103(1), 238(A), 3(5), 49, 61(2), 127, and 140 of the BNS, along with Section 66(b) of the Information Technology Act, 2000.

2. The prosecution's case, in brief, is that Accused No.1 was in an illicit relationship with the present applicant. It is alleged that Accused Nos. 1 to 3, in active connivance with each other,

committed the murder of the husband of the applicant. According to the prosecution, frequent phone calls exchanged between the applicant and Accused No.1 reveal the existence of their relationship. Further, the prosecution relies on the extra-judicial confessions made by the applicant and Accused No.1 before two witnesses, as well as the recovery of a rope and a wire allegedly used in the commission of the crime. These, according to the prosecution, form a sufficient chain of circumstances to justify continued custody of the applicant at this stage.

3. It is not in dispute that the applicant was arrested on 7th August 2024. Her earlier application for bail came to be rejected by the learned Sessions Judge. Aggrieved thereby, she has preferred the present bail application before this Court under Section 483 of BNS.

4. Learned Counsel appearing for the applicant submitted that the case against the applicant is solely based on circumstantial evidence. He argued that the only material against the applicant is (i) an alleged extra-judicial confession, and (ii) the recovery of a rope and a wire, which are said to have been used in the alleged offence. It is submitted that such a confession made outside the court is inherently weak evidence, and must be corroborated by other convincing material. In the present case, the chain of circumstances as projected by the prosecution is incomplete and does not lead to the only possible conclusion that the applicant is guilty. It is therefore urged that continued incarceration of the applicant would amount to a violation of her personal liberty under Article 21 of the Constitution, especially when trial is yet to

commence and may take considerable time.

5. On the other hand, the learned Additional Public Prosecutor opposed the application and relied upon the statements of the two witnesses to whom the extra-judicial confession was allegedly made. He also placed reliance on the call detail records indicating consistent communication between the applicant and Accused No.1. According to the prosecution, this relationship formed the motive for the murder. It is contended that all relevant material has already been collected and is part of the charge-sheet, and that a complete chain of circumstances is made out which points towards the applicant's involvement. The learned APP submitted that given the seriousness of the offence and the fact that the crime involved criminal conspiracy and murder, the applicant should not be granted bail at this stage.

6. I have carefully perused the charge-sheet along with the statements of prosecution witnesses, particularly those before whom the alleged extra-judicial confession was made. The prosecution has also placed reliance on the call detail records which show consistent telephonic communication between the present applicant and Accused No.1. Further, a disclosure statement made by co-accused Shivjit Singh has led to the alleged recovery of a rope said to be used in the commission of the offence. Upon a prima facie consideration, it is evident that the case of the prosecution is entirely based on circumstantial evidence — consisting of (i) the alleged extra-judicial confession, (ii) the motive arising out of the alleged illicit relationship, and (iii) recovery of the rope pursuant to disclosure. No direct evidence of

the incident is forthcoming at this stage.

7. While the nature of the offence alleged is undoubtedly grave, involving a charge of murder, the evidence relied upon by the prosecution is, at this stage, largely inferential in character. It is a well-settled principle of criminal law that in a case based purely on circumstantial evidence, the prosecution must establish each link in the chain of circumstances so convincingly that they point only towards the guilt of the accused and exclude every other hypothesis of innocence. In the present case, the chain of events, as presented, may raise suspicion, but suspicion howsoever grave, cannot take the place of proof. Therefore, in my considered view, further continued detention of the applicant during trial is not warranted.

8. On an overall evaluation of the material presently available on record, I am of the opinion that the prosecution has to prove the circumstances relied upon by it during trial. At this stage, the material is not so compelling as to deny the applicant her right to bail, especially when the trial is yet to commence and may take considerable time to conclude. The applicant has been in custody since 7th August 2024. The case against her is based solely on circumstantial material which requires detailed scrutiny during trial. In such a situation, further incarceration would amount to pre-trial punishment, which is impermissible in law. I am, therefore, satisfied that the applicant has made out a prima facie case for her release on bail.

9. Accordingly, the applicant is directed to be released on bail on her executing a personal bond of ₹50,000/- (Rupees Fifty Thousand only), with one or more solvent sureties in the like amount, to the satisfaction of the Trial Court, and subject to the following conditions:

- (a) The applicant shall not, in any manner, tamper with the evidence or attempt to influence any witness;
- (b) The applicant shall remain present before the Trial Court on each date of hearing, unless prevented by a genuine and sufficient cause, which shall be informed to the Court in advance;
- (c) The applicant shall not leave the territorial jurisdiction of the Trial Court without its prior permission;
- (d) The applicant shall not commit any offence during the pendency of the trial.

10. The Bail Application is accordingly allowed and stands disposed of in the above terms. No order as to costs.

(AMIT BORKAR, J.)