

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 168 OF 2015

Sou. Shobha Subhash Misal

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Rupesh A. Zade for Applicant

Mr. Arfan Sait APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : FEBRUARY 9, 2015

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 28/12/2014 in crime no. 430 of 2014 registered at Indapur Police Station for offence punishable under sections 307, 342, 504, 506 r/w 34 of Indian Penal Code.

2) It is the case of prosecution that on 27/12/2014, Nikhil Kharade lodged a report at the police station alleging therein that since on 25/12/2014, Ganesh Jayanti fair was there in the village. On 26/12/2014 at about 8.00 pm, he was in front of Vadapav Cart near Ganpati temple. At that time, Manoj Dhavare and his friends were teasing the girls who were attending the fair and

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therefore, complainant had intervened and asked them not to indulge in the said activities, since the girls are original residents of his Vasti. He was abused and assaulted. Manoj Dhavare had called upon Pankaj Misal and Subhash Misal. They also started abusing him. On 27/12/2014, Yogesh and Pankaj called upon the complainant and told him that they would like to settle the dispute which had taken place at the earlier occasion. They were called to the house of Pankaj Misal i.e. house of the present applicant. They were assaulted by Yogesh and Pankaj Misal in the house. At the time of incident, applicant was present and had latched the door from inside. Due to the intervention from the villagers, victim was rescued.

3) Present applicant happens to be mother of Yogesh and Pankaj Misal. No specific role of assault is attributed to her, but, it cannot be said that she had not supported her sons at the time when they were assaulting the victim, however, applicant, being a woman, deserves to be protected by virtue of Proviso to section 437 of Code of Criminal Procedure, 1973. It is made clear that co-accused i.e. sons of present applicant shall not claim parity with the present applicant as she has been enlarged on bail by virtue of Proviso to

section 437 of Code of Criminal Procedure, 1973. Investigation is in progress and hence, applicant shall not reside in village Nimgaon Ketki till the filing of charge-sheet.

ORDER

- (i) Application is allowed.
- (ii) Applicant be enlarged on bail on furnishing P. R. bond in the sum of Rs. 15,000/- and one or two sureties in the like amount.
- (iii) Applicant shall not reside in village Nimgaon Ketki till the filing of charge-sheet.
- (iv) Applicant shall report to the concerned police station as and when called.

Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)