

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 798 OF 2015

Reshma Samir Hussain

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Prabhanjay R. Dave for Applicant

Ms. Rutuja Ambekar APP for the State.

Mr. Mahadeo B. Chavan, P.S.I. Oshiwara

Police Station

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 22nd JULY 2015

PC :

Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 01/08/2014 in crime no. 11 of 2014 registered at Oshiwara Police Station for offence punishable under sections 376, 506 (II) r/w 34 of Indian Penal Code and section 4, 8 & 12 of Protection of Children from Sexual Offences Act, 2012.

2) It is the case of prosecution that on 08/01/2014, Tayyab Ali Sayyad who happens to be brother present applicant lodged a report at the police station that his sister i.e. present applicant got married in the year 2000 and she was residing at Mumbai in Jogeshwari (West). One fine day, his sister had

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requested the complainant to send his daughters along with her for their betterment and that she would look after them. She had also assured her brother that she would take care of their education and upbringing. On the said assurance, complainant had sent his three daughters aged about, 17, 15 & 13 years respectively, to the house of present applicant. She was requesting the complainant to execute an agreement that he has handed over the daughters to her permanently. His wife had refused to enter into such agreement. It is also alleged that whenever complainant tried to contact his daughters applicant would restrain them from talking to him. Thereafter, complainant had learnt about the atrocities meted out to his daughters at the instance of applicant by her husband. Complainant was restrained from filing F.I.R. on the ground that it is a family dispute, however, subsequently after he discussed with other siblings, he decided to lodge a report. At that stage also, he was made to understand and was offered Rs. 30,00,000/- for not taking any action. In the interest of welfare of his daughters, complainant had lodged a report on the basis of which offence was registered.

3) Applicant had approached this Court seeking pre-arrest bail. On 21/02/2014, application filed by applicant was withdrawn. Husband of the

applicant was arrested. It was noticed that husband of the applicant was suffering from tuberculosis and other ailments. This Court had refused to hear the application filed by the husband of the applicant on merits till present applicant surrenders, because it was reported that she was absconding. Thereafter, applicant had surrendered before the Court of Magistrate. Husband of the applicant has been granted bail on medical grounds since he was suffering from pulmonary tuberculosis and also needs to undergo liver transplant. Applicant herein prays for bail.

4) Upon perusal of the statements of the victims and considering the role attributed to the present applicant, this Court is not inclined to grant bail to the applicant, although she is a woman. Young girls have suffered atrocities and sexual abuse at the hands of the present applicant. Victims would carry the scar throughout their life. It is not a physical injury, but an injury to womanhood and hence, applicant does not deserve grant of bail.

5) Investigating Officer is present in the Court. Learned APP submits that she would give instructions to jail authorities to produce applicant on each scheduled date before Special Court.

ORDER

- (i) Application, being sans merits, stands rejected.
- (ii) Since, applicant is a woman and mother of two minor children, Sessions Court is requested to expedite the trial as far as possible.
- (iii) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)