

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 895 OF 2015

Ms. Mita MittraApplicant

V/s.

The State of MaharashtraRespondent

Mr. Niranjan Mundargi i/b Mr. Sandeep Sherkhane for Applicant

Mr. Y. M. Nakhwa APP for the State.

Mr. R. S. Yadav, P.S.I. Bandra Police Station

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 29th JUNE 2015

PC :

Heard. This is an application under section 438 of Code of Criminal Procedure, 1973. Applicant herein is apprehending her arrest in crime no. 361 of 2015 registered at Bandra Police Station for offence punishable under sections 452, 324, 354, 504, 506 (II), 323, 427 of Indian Penal Code and section 66 (E) of Information and Technology Act.

2) It is the case of prosecution that complainant has daughter who is 11 years old and her daughter is studying in the same class as that of daughter of present applicant. The divorced husband of present applicant has got the custody of the daughter. That according to complainant, applicant herein had grudge that because of her, father has got the custody of daughter. According

to complainant on 21/06/2015 at about 1.30 p.m. present applicant came to her house and upon opening the door, she first assaulted the made of the complainant. She snatched the cellphone from the hands of complainant and thereafter assaulted her with an umbrella. It is also alleged that present applicant outraged the modesty of the complainant and had taken objectionable pictures of the complainant in her cellphone. On the basis of the said report, crime no. 361 of 2015 was registered at Bandra Police Station.

3) It is pertinent to note that on the same day, present applicant has also lodged a report at the same police station alleging therein that her daughter had informed her that complainant in crime no. 361 of 2015 was levelling wild allegations in respect of character of present applicant. Applicant was annoyed with the same. She had been to the house of complainant to ask her as to why she is spreading rumours or levelling wild allegations against her. That when she reached the house, complainant had hurled filthy abuses at her and thereafter with the help of maid, she had assaulted her with an iron rod. On the basis of her report, crime no. 364 of 2015 was registered at Bandra Police Station against complainant for offence punishable under section 324, 354, 504, 506 r/w 34 of Indian Penal Code and section 66 (E) of Information

Technology Act, 2000.

4) It is pertinent to note that both women have levelled similar allegations. Upon instructions from Investigating Officer, learned APP submits that statement of husband of complainant is not recorded, since he is residing at Delhi and was not present in Mumbai on the day of incident. Perused papers of investigation. Medico legal case paper clearly show that patient was brought by husband. Prima facie, it appears that complainant as well as applicant are quarreling over the relationship with the divorced husband of present applicant. Not only the allegations levelled in both F.I.R. are similar, but the injuries sustained by present applicant and complainant are also similar in nature. Incident is admitted by applicant.

5) Learned counsel for the applicant submits that applicant admits that she had gone to the house of complainant to enquire with her about the filthy allegations levelled against her and which had influenced the tender mind of her daughter.

6) Be that as it may, in the facts and circumstances of the case, custodial interrogation of the applicant would not be imperative. The only non bailable offence alleged against present applicant is section 452 of Indian Penal Code.

And hence, she deserves pre-arrest bail. It is made clear that observations made herein above are prima facie in nature and shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

ORDER

- (i) Application is allowed.
- (ii) In the event of arrest, applicant be enlarged on bail on furnishing P. R. bond in the sum of Rs. 25,000/- with one or two solvent sureties in the like amount.
- (iii) Applicant shall report to concerned police station as and when called.
- (iv) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)