

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

BAIL APPLICATION NO.2258 OF 2015

Riyaz Hazaratulla Sayyad.

...Applicant.

vs.

The State of Maharashtra.

...Respondent.

Ms. Anjali Awasthi i/by Moinuddin Khan for the Applicant.

Mr.M.H.Mhatre,APP. for the State.

CORAM : A.S. GADKARI, J.**DATE : 19th November, 2015.****P.C. :**

The applicant is seeking bail in CR No.398 of 2015 registered with Bandra Police Station, Mumbai under Section 313, 420, 323, 504 read with 34 of the I.P.C. The complainant Smt. Shabana Shaikh has lodged FIR on 5.7.2015 stating therein that the applicant herein had given her a hut to reside by accepting money. The said hut was subsequently demolished by the Government authorities. However, the applicant again constructed the said hut and allowed a third person to reside in the same. When the complainant came to know about the said fact, she questioned the occupant of the said hut about his occupancy, when the said person gave a phone call to the applicant and the applicant rushed to the said spot instantly along with his sons and daughter. After an initial altercation amongst them, the scuffle ensued. During the said scuffle the complainant told the

applicant that she was pregnant and in spite of the same the applicant pushed her, due to which she fell down on the earth. It is further stated in the said complaint that because of the said fall the complainant had to undergo termination of her pregnancy. The complainant has further stated that she was thereafter admitted in Bhaba Hospital and therefore, there was delay in registering in the FIR.

2) Learned counsel appearing for the applicant submitted that initially there were altercations between the parties and the applicant did not have any intention to cause the termination of pregnancy thereby attracting Section 313 of the I.P.C. She further submitted that on a plain reading of the complaint it appears that the applicant was not having any intention to commit an offence under Section 313 of the I.P.C. Per contra, the learned APP. while contesting the said application submitted that due to the dash given by the applicant, the complainant was admitted in hospital and she had to undergo medical termination of the pregnancy. She further contended that the applicant has spread reign of terror in the locality and is constructing the illegal huts.

3) The record discloses that charge sheet has already been filed and other three co-accused persons have been released on bail. In my opinion, prima facie, at this stage it is difficult to infer that, the applicant was having any intention to commit the offence under Section 313 of the I.P.C. The applicant is of 59 years of age. Considering the above facts, I am of the opinion that the applicant can

be released on bail by imposing stringent conditions. Hence, I pass the following order.

ORDER

- a) The applicant shall be released on PR bond of Rs.50,000/- with one or two solvent sureties in the like amount in CR No.398/2015 registered with Bandra Police Station, Mumbai.
- b) The applicant shall attend the Bandra Police Station on every Monday between 10 a.m. to 12.p.m. till the completion of trial.
- c) The applicant shall not tamper with the evidence and influence the prosecution witnesses.
- d) The applicant shall deposit his pass port if he has with the Investigation Officer within a period of one week from today.
- e) Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)