

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.103 OF 2016

Shahina Parvez Momin

... Applicant

Vs.

1. Tanveer Hasim Momin

2. Navid Hasim Momin

3. Rubina Hasin Momin

4. The State of Maharashtra

... Respondents

Mr.S.D. Patil i/b Shah C. Yogesh for the Applicant

Ms.S.S. Kaushik, APP, for Respondent – State

Mr.S.S. Butala for respondent Nos.1, 2 and 3

Mr.P.B. Pawar, API, Bhoiwada police station, Thane city – present

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **APRIL 5, 2016**

P.C.:

1. This application is moved by one Salma Mohammad Ameen Momin, the mother of deceased Shahina Parvez Momin, for cancellation of bail granted to the accused / respondent Nos.1, 2 and 3 herein by the learned Additional Sessions Judge by its order dated 30.1.2015. The offence is registered at the instance of Shahina Parvez Momin, the daughter of the applicant-accused, who committed suicide on 17.12.2015 as she was tired of fights and taunting of her in-laws who are accused in C.R. No.I-172 of 2015 which is pending before the Thane Court.

2. It is submitted by the learned Counsel for the applicant that that the learned Additional Sessions Judge has passed an erroneous order. He submitted that it is an example of non-application of mind as the accused have played a specific role of harassing her which led her to commit suicide. The learned Judge ought to have considered all these circumstances against the accused persons and ought not to have granted anticipatory bail. The lady finally lost her life after she poured kerosene on her and set herself on fire. He submitted that the said order dated 30.1.2016 be set aside and cancel the bail granted to the accused.

3. The prosecution has not filed any application challenging the order. I have perused the order passed by the learned Sessions Judge. The criteria for grant of anticipatory bail under section 438 of Code of Civil Procedure and the reasons for cancellation of bail are different and do not stand on the same footing. The order of the learned Sessions Judge cannot be faulted with considering the nature of the offence. There is no complaint from the Investigating Officer that the accused have violated any condition of bail.

4. In the circumstances of the case, the Application is rejected.

(MRIDULA BHATKAR, J.)