

Anand

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

BAIL APPLICATION No.432 OF 2016

Bhausahab Maruti Godse .Applicant

Vs.

The State of Maharashtra .Respondent

**WITH
BAIL APPLICATION No.488 OF 2016**

Smt.Ashwini Sunil Khairnar .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.N.Mundargi i/b. Mr.S.Karpe, Advocate, for the
Applicant in B.A.No.432 of 2016

Mr.B.D.Joshi, Advocate, for the Applicant in
B.A.No.488 of 2016

Ms R.M.Gadhvi, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 21.03.2016

P.C.

. Heard learned counsel for the Applicants
and the learned APP for the Respondent – State.

2. By these Applications, the Applicants seek

their enlargement on bail in connection with C.R.No.I-181 of 2015 registered with the Manmad City Police Station, District – Nasik, for the alleged offences punishable under Sections 120B, 372, 373, 420, 511 r/w.34 of the Indian Penal Code.

3. The Complainant-Sunita Amol Pawar has in her complaint disclosed, that she was earlier married to one Tarachand Gopinath Jawale and that she had two children, a son aged 6 years and a daughter aged about 5 years, from the said marriage. She has stated that thereafter, she separated from her husband and got married to Amol Pawar in 2014 and delivered a baby girl Juli on 08.11.2015. She has stated that as she was in need of money, for her delivery and as her husband was away, her sister-in-law borrowed a sum of Rs.3,000/- from Bhausahab Maruti Godse (Applicant in B.A.No.432 of 2016). She has stated that thereafter, the Applicant Bhausahab Godse and one

unknown lady, Kusum came to her house and started demanding the said amount. According to her, when she disclosed to them, that she did not have the money to pay back immediately, Kusum Kharat told her that she will not be able to look after her daughter, and that she should give her daughter in adoption to Smt.Ashwini Khairnar, the Applicant in B.A.No.488 of 2016. She has stated that they disclosed to her, that Smt. Ashwini Khairnar would lookafter her daughter well. It is, thereafter, alleged that Bhausahab Godse, Kusum Kharat, her sister Terija Katharnavare and their friend Swapnil Zavare took her to Manmad on 30.11.2015 to meet Smt.Ashwini Khairnar. She has alleged that on 01.12.2015, she over heard a conversation between the said persons, who were sitting in a room and realized that the accused had sold her daughter Juli to Smt.Ashwini Khairnar for a sum of Rs.60,000/-. Pursuant to the aforesaid, a complaint was lodged as against the accused.

4. Learned counsel for the Applicants relied on the 164 statement of the Complainant, which was recorded eight days after the incident and after registration of the FIR. The said statement is on page No.9 of B.A.No.488 of 2016. It was submitted that in the said 164 statement, the Complainant has not made any allegations against any person and in fact, has denied any incident having taken place, as disclosed in the FIR. It was submitted that charge-sheet is filed and that custody of the Applicants is not required. It was also urged that no offences punishable under Sections 372 & 373 are disclosed in the facts of the present case.

5. Learned APP opposes the Bail Applications. On a query being made, learned APP on the instructions of the investigating officer, who is present in Court, states that there are no antecedents qua any of the Applicants.

6. Perused the charge-sheet, in particular, the statement recorded under Section 164 of Cr.P.C. of the Complainant. Although, in the FIR the Complainant has made certain allegations against the Applicants, in her 164 statement, she has stated that no such incident had taken place. Charge-sheet has been filed in the said case and the Applicants are in custody since their arrest i.e. from December, 2015.

7. In the peculiar facts of this case, the Applicants are enlarged on bail on the following terms & conditions.

ORDER

(i) The applicants be enlarged on bail, on executing PR Bond in the sum of Rs.10,000/- each with one or two sureties in the like amount;

(ii) The applicants shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iii) The applicants shall inform their latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(iv) The applicants to cooperate with the conduct of the trial;

(v) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicants' bail.

8. The Applications are allowed in the aforesaid terms and are accordingly disposed of.

9. It is made clear, that the observations made herein are, *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the

observations made in this order.

Parties to act on the authenticated copy
of this order.

(REVATI MOHITE DERE, J.)