

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1242 OF 2016

Manisha Madhukar Patil

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Samarth S. Karkarkar a/w Mr. Subhash
Samukhrao Advocate for Applicant.
Mr. S. H. Yadav APP for the State.
Mr. Vijay V. Bodake, Havaladar Chinchwad
Police Station, Pune.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : SEPTEMBER 7, 2016.

PC :

- 1) Heard. This is an application under section 439 of the Code of Criminal Procedure, 1973. The Applicant herein is arrested on 03/12/2015 in crime no. 309 of 2015 registered at Chinchwad Police Station for offence punishable under sections 307, 120 (B) of the Indian Penal Code and Section 37 (1) (3) r/w Section 135 of the Mumbai Police Act.
- 2) It is the case of the prosecution that on 01/12/2015, Madhukar Patil i.e.

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the husband of the present Applicant lodged F.I.R. at the police station alleging therein that on 30/11/2015 he had worked in the second shift and had returned home at about 11.50. At that time, one person had assaulted him on his head from behind. He had given description of the person who had assaulted him. He had sustained injury on his head. That he had also tried to accost the said assailant, however, it was to no avail as the accused had escaped. His neighbours had taken him to the hospital. In the course of accosting the accused, he had snatched the weapon from the hands of the accused. Upon enquiry, with his wife and daughters, he was informed that at about 11.30 p.m., there was a knock on the door. They presumed that the first informant had returned home and therefore, they opened the door. There were 5 persons outside the house. They had entered into the house and had threatened his wife and daughters at the point of weapon and had taken away the golden ornaments. His wife had informed him that they had rescued themselves and had gone to the house of the brother of the first informant. On the basis of the said report, offence was registered against unknown persons for offence punishable under section 395 of the Indian Penal Code.

3) In the course of investigation, it was revealed that the younger daughter

of the present Applicant was in love with one Nilesh Bhardia. That on 03/12/2015, the statement of the daughter of the Applicant was recorded. She had disclosed that her mother was acquainted with Nilesh Bhardia. That Nilesh Bhardia and her mother had hatched a plot to eliminate the husband of the present Applicant as he was against the marriage of her daughter Abhilasha and Nilesh Bhardia. The statement of daughter of the Applicant indicates that on 30/11/2015, she had left the house along with her mother. On the way, the principal accused Nilesh was waiting in his car. That the Applicant and her daughter had accompanied Nilesh and the daughter of the complainant was informed that her father is likely to assault her on that day. While in car, principal accused Nilesh had asked the present Applicant to keep all the ornaments in the bag of Sanjeevani with whom he was likely to get married. That Nilesh had dropped Applicant and her daughters to the house of their relatives.

4) The offence alleged against the present Applicant is that she had hatched the plot along with principal accused. That they wanted to assault/eliminate the husband of the Applicant. On 03/12/2015 itself, Applicant was taken into custody and is in custody since then. Investigation is

completed and charge-sheet is filed.

5) The learned counsel for the Applicant submits that Applicant is in custody for past more than 9 months. That by virtue of proviso to section 437 of the Code of Criminal Procedure, 1973, Applicant deserves to be enlarged on bail.

6) As against this, the learned APP submits that Applicant does not deserve any sympathy as she had hatched a plot to eliminate her husband and that she had conspired with the principal accused. It is further submitted that principal accused are in custody and in the eventuality of being enlarged on bail, the possibility that the Applicant would influence her daughters and tamper with evidence cannot be ruled out and hence, according to the learned APP, Applicant does not deserve to be enlarged on bail. The learned APP submits that statement of the witnesses is not recorded under section 164 of the Code of Criminal Procedure, 1973.

7) Taking into consideration the nature of allegations and the fact that the investigation is completed and charge-sheet is filed, coupled with the fact that Applicant happens to be a woman and is entitled to bail with the aid of proviso to section 437 of the Code of Criminal Procedure, 1973, Applicant

deserves to be enlarged on bail. However, 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) Applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs. 50,000/- with one or more solvent sureties in the like amount.
- (iii) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)