

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

4 CRIMINAL APPLICATION NO. 1947 OF 2017

MALEKA BEGUM W/O. ANWAR PATHAN
VERSUS
THE STATE OF MAHARASHTRA

Shri. Adil Z. Biyabani, Advocate, for applicant.

Shri. R.V. Dasalkar, Additional Public Prosecutor, for
respondent.

Coram: T.V. NALAWADE, J.

Date: 27 April 2017

ORDER:

1) The application is filed for grant of anticipatory bail. Both the sides are heard. Papers of investigation were made available.

2) Crime is registered on the basis of report given by the complainant-Yasmin Shaikh. She has dispute with the family of the present applicant. According to her, the incident in question took place on the night between 13 March and 14 March 2017. She has made allegation that

at about 10.00 p.m. four ladies entered in her house, picked up quarrel and then set fire to her house. It is her contention that due to fire, household articles including clothes were burnt and after that they ran away. On the basis of this report crime at CR No.87/2017 came to be registered in Jinsi Police Station Aurangabad for offences punishable under sections 452, 436, 323, 143, 147, 149, 34 of the Indian Penal Code. It appears that subsequently in a supplementary statement she took names of male persons of the family of the present applicant and so they are also treated as accused persons.

3) This Court has gone through the spot panchanama. It shows that a gunny bag and some clothes were found partly burnt and there was smell of kerosene. Similarly, some utensils had become black due to fire. However, the fire had not reached any wall of the room or the roof of the room. This circumstance cannot be ignored.

4) Age of the present applicant is shown as 77 years. The learned counsel for the applicant submitted

that at the relevant time the applicant had visited the office of one Dr. Zafar Khan. He has produced on record the print-out of the CCTV footage showing that from 9.48 p.m. to 10.05 p.m. the applicant was present in the office of the said doctor. The ground of alibi cannot be considered at this stage but attempt can be made to find out the truth in such cases. In view of the aforesaid circumstances interim protection was granted to present applicant. Considering the age of the applicant and the aforesaid circumstances, relief of anticipatory bail can be granted to the applicant. However, relief granted to the present applicant cannot be used as a ground of parity for other accused. So the application is allowed. Interim relief already granted is confirmed.

Sd/-
(T.V. NALAWADE, J.)

rs1