

FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1703 OF 2017

Parvez Eklakh Ahmed Shah vs.The State of Maharashtra

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. R.D.Suryawanshi for the applicant.

Mr.Ameet Palkar, APP for the Respondent-State.

CORAM :A.S.GADKARI, J.

DATE : 14th December, 2017

P.C.

1. This is an application under Section 438 of the Cr.PC. for pre arrest bail in CR No.I-168 of 2017 registered with Shantinagar Police Station, Bhiwandi, District Thane under Section 313 read with 34 of the I.P.C.

2. Heard the learned counsel for the applicant and the learned APP. Perused the record of investigation.

3. The first information report is lodged by Smt. Mariya Fizad Shaikh. It is alleged that on 25.4.2017 at about 11.00 p.m. when she was returning to her house alongwith her husband and reached near Noor Jaha Apartment, Bhiwandi the present applicant and three other persons accosted them and questioned her, as to why she is not withdrawing the case filed under Section 498A of Indian Penal Code. The first informant told the accused persons that she will not

withdraw the said case and thereafter the accused persons started quarreling with the husband of the first informant and assaulted him with first and kick blows. With a view to protect her husband the first informant intervened in the said fight when co accused Nousif Shaikh pulled her aside and it is alleged that the present applicant Parvez Shah gave a kick in her stomach and therefore she fell down. As there was severe pain in her stomach she was taken to IGM Hospital, Bhiwandi. It is further alleged that on 26.4.2017 the Doctor attached to the said hospital examined her and informed her that foetus in her womb has received injury and the same cannot be saved. That, therefore, she has to undergo abortion and thereafter the present crime is lodged.

4. The learned counsel for the applicant submitted that on the date of incident i.e. 26.8.2017 the applicant has also lodged FIR bearing No.116/217 against the husband of the first informant and other accused persons. He further submitted that the applicant has also received serious injuries in the said fight he submitted that it is possible that the first informant might have received the said injuries, however, the applicant is not the author of the same. He therefore, prayed that the applicant may be protected by pre arrest bail.

5. The record of investigation reveals that the Investigating Officer on a questionnaire forwarded to IGM Hospital, Bhiwandi by

the concerned Medical Officer has opined that due to assault there is possibility of abortion or medical termination of the fetus. As noted earlier the first informant has in unequivocal terms alleged that it is the applicant who gave kick in the stomach of the first informant with full force and therefore, she started feeling severe pains in her stomach and subsequently she had to undergo abortion. Thus, it prima facie appears that the version of the first informant is duly corroborated by the medical evidence collected by the investigating agency.

6. After taking into consideration the serious allegations against the applicant and the gravity of the offence, this Court is of the view that the applicant does not deserve to be protected by pre-arrest bail.

7. Application is accordingly rejected.

(A.S.GADKARI, J.)