

Sarnobat

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

CRIMINAL BAIL APPLICATION NO. 379 OF 2018

Sarika Lakhan More.

.. Applicant.

Vs.

The State of Maharashtra.

.. Respondent.

Mr. Y, B, Lengare, Advocate for the Applicant.

Mr. Y. M. Nakhwa, APP for the Respondent/State.

CORAM : P. N. DESHMUKH, J.

DATE : 27TH FEBRUARY, 2018.

P. C. :

1. This is an application filed for grant of bail in Crime No.145/2017, registered with Gandhinagar Police Station, Kolhapur under Section 307, 315 r.w. 34 of Indian Penal Code.

2. Learned counsel for the applicant submits that investigation is complete and charge-sheet is filed. Since 6th September, 2017, the applicant is in custody. By referring to the contents of report, it demonstrates as to how there is no involvement of the applicant who is mother of the new born female child, in the incident of attempt to kill the infant. By referring to other statements on record and of applicant's husband, it is demonstrated as to how

statements of all these witnesses do not establish involvement of applicant in any manner. Thus it is submitted that application be allowed.

3. Learned Additional Public Prosecutor could not defend above stated aspect. Perusal of report reveals that on 28th August, 2017 applicant delivered a female child. After delivery of child, it was noticed by complainant Shivani Harish Hankare, the landlady who had rented one room to applicant for delivery purpose. The complainant learnt about applicant's delivery of female child, on hearing voice of crying of new born child. Therefore, she went to the spot and on way in a lane she met one Deepa Yadav and Gabbar Katiyar who informed complainant that applicant's mother had wrapped new born child in a piece of cloth and had went towards the railway line. On knowing this fact, complainant along with two other females proceeded towards that side. However, they could not notice applicant's mother and therefore, returned home.

4. On coming back, they enquired with the applicant's mother Nakushi when she disclosed that, as applicant had delivered a dead child, she had buried the child near the railway line. However, complainant since suspected Nakushi, insisted her to come to the spot

where a child was buried. By that time other residents and husband of applicant had also reached the spot, out of which Jyotiram Chougule, Ganga Rathod and Bharat Ganesh Umashankar Kumbharbhati removed the mud and took out one gunny bag which was found having concealed therein, one female new born baby and was found crying. On the basis of report, offence came to be registered against the applicant and her mother.

5. From the contents of report, no involvement of applicant is found in any manner, nor it can at this stage be said that the applicant was in any way instrumental with her mother who took away with her a new born female child, as it is found that immediately after applicant delivering the child in the early hours morning on 28th August, 2017 and complainant visited her on hearing the voice of new born child, she before reaching to the applicant's room is found to have informed by other witnesses that applicant's mother Nakushi had took the new born child towards railway line.

6. From the statement of applicant's husband in fact it is noted that the applicant's relation with her husband and family members were cordial and in clear terms have stated that applicant is no way involved in the present act. Similar that is stated in all

statements of Jyotiram Chougule, Ganga Rathod and Bharat Ganesh Umashankar Kumbharbhati.

7. In view of facts as aforesaid, since there appears no evidence against the applicant, application is allowed as per order below:

ORDER

i) The applicant be released on bail on her executing P.R. bond in a sum of Rs.25,000/- with one surety in the like amount.

ii) While on bail, applicant shall attend Gandhi Nagar Police Station, Kolhapur once in three months pending the trial.

[P. N. DESHMUKH , J.]