

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1769 OF 2018

Reshma Subhan Ansari, Age 36 years,
R/o.Room No.10, Behrampada, Bandra (E),
Mumbai-400 051.
Presently at Byculla Central Prison.

Applicant

versus

The State of Maharashtra

Respondent

Mr.O.A.Sideiqui I/by Atique Ur Rehman for applicant.
Mr.M.G.Patil, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 5th September 2018

PC :

1. This is an application for bail. The applicant was arrested on 12th March 2018 in connection with CR No.65 of 2018 registered with Bandra-Kurla Complex Police Station under Section 302 of Indian Penal Code.

2. The case of prosecution is that on 1st March 2018 at about 9.00 p.m, the deceased was murdered. The statement of the son of the deceased recorded on 2nd March 2018 indicate that the deceased was collecting amount towards bhisi from various persons. The deceased also used give loans to needy persons against interest. On the previous day of the incident, the deceased had informed the complainant that the accused was in need of Rs.1.35 crores. He was also informed that the accused had threatened her that in the event she does not provide money within three days, she will have to face

dire consequences. The deceased was found dead on the next day. During the course of investigation the applicant was arrested on 12th March 2018. The statement of witness Sania was recorded on 2nd March 2018 in which she has stated that she had seen the deceased with one lady at about 8.30 pm on 1st March 2018. The statement of another witness namely Kasim Shaikh was recorded on 6th March 2018 wherein he had stated that he had heard the sound of one lady shouting in one building and at that time he saw one lady wearing burkha passing from the said place in the night of 1st March 2018. Identification parade was conducted on 19th April 2018 wherein both the said witnesses had identified the applicant as a lady who was accompanying the deceased and a lady who was passing near the building where the deceased was found murdered.

3. Learned advocate for the applicant drew my attention to the statements of witnesses wherein it is stated that the deceased used to collect bhisi amount from several persons and she was abusive. She was conducting bhisi and in the event any member delays payment, she used to abuse and shout. It is submitted that in the remand application dated 19th April 2018, it was not disclosed that the applicant has been identified on 19th April 2018. In the subsequent remand application dated 5th May 2018, it was mentioned that identification parade is yet to be conducted. If the test identification parade was held on 19th April 2018, the said fact would have been reflected in the remand applications. It is submitted that evidence of identification parade is concocted. It is submitted that except aforesaid evidence, there is no other cogent evidence to show involvement of the applicant in the crime. The applicant is in custody since the date of arrest.

4. Learned APP submitted that there is sufficient evidence against applicant. The statements of witnesses referred to above is corroborated by the evidence of identification parade. It is further submitted that there is recovery of plastic bag from the applicant, which was containing the identity card of deceased. It is submitted that circumstantial evidence clearly show the involvement of the applicant.

5. I have perused the charge sheet which is annexed to the application. The statement of witness Sania Shekh was recorded on 2nd March 2018. The applicant was arrested on 12th March 2018 and the purported identification parade was held on 19th April 2018. On perusal of the statement of other witness, it is apparent that in his statement he had mentioned that he was passing from the building during the night time and he heard shouts of a woman and he found suspicious situation and noticed one lady wearing burka passing near the said building. Learned counsel for applicant submitted that the fact that witnesses had seen the lady in burkha falsifies the case of prosecution that she was identified in the identification parade which was conducted on 19th April 2018. The witness had seen the lady passing near the place of incident during the night time. In the light of aforesaid circumstances, it is apparent that the evidence against applicant is that she was last seen together and/or last seen near the place of incident which is based on the identification parade held on 19th April 2018 as well as recovery of plastic bag as stated above. It is pertinent to note that the deceased was allegedly murdered by using sharp weapon and she has sustained several injuries. There is no direct evidence to show involvement of the applicant. The

alleged knife is not recovered from the applicant. The deceased had sustained around 30 injuries and it is difficult to believe that it is the work of a single women to commit said act. In the light of nature of evidence and considering the fact that the applicant is in custody from the date of arrest, case for grant of bail is made out.

6. Hence, I pass following order :

ORDER

- (i) Criminal Bail Application No.1769 of 2018 is allowed and disposed off;
- (ii) The applicant is directed to be released on bail in connection with CR No.65 of 2018 registered with Bandra Kurla Complex Police Station, Mumbai, on furnishing PR bond in the sum of Rs.20,000/- with one or more sureties in the like amount;
- (iii) The applicant shall report the investigating officer of Bandra Kurla Police Station once in a month on every first Friday between 10 am and 12 noon till further orders;
- (iv) The applicant is permitted to furnish cash security in the sum of Rs.20,000/- for four weeks;
- (v) The applicant shall not tamper with the evidence.

(PRAKASH D. NAIK, J.)

MST