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

CRIMINAL BAIL APPLICATION NO.2456 OF 2017

Sarita Vijay Prasad Nishad

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr.M.M.Badgujar, for the Applicant.

Ms.A.A.Takalkar, A.P.P for the Respondent-State.

PSI – Parag Bhat, Narpoli Police Station, Bhiwandi, Thane.

CORAM : REVATI MOHITE DERE, J.

DATE : 12th MARCH, 2018

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the Applicant seeks her enlargement on bail in connection with C.R.No.I-498 of 2014 registered with the Narpoli Police Station, Bhiwandi, Thane, for the alleged offences punishable under Sections 302, 201, 203 and 34 of the Indian Penal Code and under Sections 37(1), 135 of Mumbai Police Act.

3. Learned Counsel for the applicant submitted that there is no material on record to connect the applicant with the alleged offences. He submitted that admittedly, the applicant has received grievous injuries and that her two fingers were required to be imputed, as a result of the assault on her. He submitted that there is no evidence, either direct or circumstantial, as against the applicant. He submitted that the applicant is in custody since 29th June, 2016 with her minor child.

4. Learned APP opposed the application.

5. Perused the charge-sheet. The prosecution case rests on circumstantial evidence. The incident is alleged to have taken place on 27th November, 2014 at 12.30 a.m. According to Bajarangilal Nishad, at about 12.00 in the midnight, when he was trying to sleep, he heard some noise from the applicant's house; that at 12.30 a.m., the applicant's husband – Vijay came out and started shouting for water; that he immediately woke up Angad (deceased) and others; that when he went near the applicant's husband, he saw that the applicant's husband was bleeding and was asking for water; that when Angad (deceased) asked him what had happened and

who had assaulted him, it is alleged that the applicant's husband disclosed that he had not seen the assailant. Bajarangilal has further disclosed that he went on the terrace of the building to call the other persons and when he returned, he saw that Angad (deceased) as well as one Ram Bahadur were lying in a pool of blood, inside the house. He has further stated that he also saw the applicant sitting in the room and that she too had received injuries. As noted earlier, there are no eye-witnesses to the incident of assault and the complaint was lodged by the applicant's husband, as against one unknown person. Subsequently, during investigation, the applicant and her husband were arrested on 29th June, 2016, i.e. after almost 1 ½ year. A perusal of the injury certificate of the applicant shows that the applicant had received 4 injuries, which are as under:-

- “1. Incised LW 3X1X1 cms over High parietal region, sutured.
2. Incised wound 5X2X2 cms over L wrist zone V tendons exposed, ulnar N and artery cut.
3. Traumatic amputation of Rt 3rd and 4th digit at MPJ level
4. Traumatic amputation of thumb at IP joint level”.

6. It appears that the principal allegation of the prosecution, as against the applicant, is that she gave false information to the police and not of assault. The applicant is a lady and is in custody for last one year with a small child in jail.

7. Considering the nature of allegations, as against the applicant, the application is allowed and the applicant is enlarged on bail on the following terms and conditions:-

ORDER

i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- with one or two sureties in the like amount;

ii) The Applicant shall not tamper with the evidence or attempt to influence the witnesses or any person concerned with the case;

iii) The Applicant shall co-operate in the conduct of the trial.

8. The Application is allowed and disposed of in above terms.

9. It is made clear, that the observations made herein are *prima facie* and are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

10. All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)