

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

CRIMINAL BAIL APPLICATION NO. 2826 OF 2017

Bibi Fatima Adam Ali Shaikh ... Applicant.

Versus

The State of Maharashtra ... Respondent.

Mr. Husen Shaikh, Advocate for the Applicant.

Ms. A.A. Takalkar, APP for the State.

CORAM : REVATI MOHITE DERE, J.

DATE : MARCH 13, 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. 93 of 2015 registered with Ghatkopar Police Station, Mumbai, for the alleged offences punishable under Sections 302, 143, 144, 146, 323 of the Indian Penal Code and under sections 37(1)(iii) and 135 of the Maharashtra Police Act.

3 Learned counsel for the Applicant seeks bail on the ground of parity as well as on merits. He submits that similarly placed co-accused – Sabira Adam Ali Shaikh, who is alleged to have been carrying a plastic bag, containing chilly powder, has

been enlarged on bail by this court vide order dated 17.02.2016. He submits that as far as the present applicant is concerned, there are discrepancies in the statement of the witnesses with respect to the role played by the applicant. He submitted that one witness has alleged that the applicant threw chilly powder in the eyes of Jaffar; whereas the other witness states that she threw chilly powder in the eyes of Imtiyaz, as a result of which the co-accused assaulted Imtiyaz (deceased). He submitted that the applicant is in custody since 12.03.2015 and the investigation is complete and chargesheet is filed.

4 Learned APP opposed the application.

5 Perused the papers/ charge-sheet. Co-accused Sabira has been enlarged on bail by this court vide order dated 17.02.2016. Sabira is alleged to have been carrying a plastic bag, containing chilly powder. As far as the present applicant is concerned, it appears that the applicant threw chilly powder in the direction of the witness Jaffar and deceased Imtiyaz. It appears that the incident dated 12.03.2015 is the outcome of an earlier incident which took place 4 to 5 days prior thereto. According to the prosecution, it is co-accused - Guljjar @ Chand Aadam Ali Shaikh, who inflicted a knife blow on Imtiyaz; as a result of which Imtiyaz succumbed to the injury. The applicant, a lady, is in custody since 12.03.2015. Investigation is complete and charge-sheet is filed. The Applicant has no antecedents.

6 Considering the aforesaid, 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 contact the complainant or any other witnesses concerned with the said case;
- iii) The Applicant shall co-operate in the conduct of the trial;

7 The Application is allowed and disposed of in the aforesaid terms.

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

9 All concerned to act on the authenticated copy of this order, duly issued by the Registry of this court.

(REVATI MOHITE DERE, J.)