

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (BA) 559 OF 2018

(Farjana Parveen Sharik Shah..vs.. State, thr PSO, PS Daryapur, Tq. Achalpur)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Shri V.A. Thakre, APP for non-applicant.

CORAM: ROHIT B. DEO, J.

DATE: 12 July, 2018.

Heard.

2 None present for the applicant.

3 However, with the assistance of the learned APP
Shri V.A. Thakre, I have perused the material on record.

4 The deceased, whose corpus delicti was found on
13.8.2017 at the instance of co-accused Altaf Shah was the
husband of the applicant.

5 The prosecution case is that co-accused Altaf
Shah visited the Police Station Daryapur on 11.1.2018 and
confessed that he alongwith other co-accused murdered the
deceased in an abandoned bone factory by throttling. In the
interregnum, the applicant had lodged missing report on
13.8.2017.

6 The material pressed in service by the learned
APP to oppose bail is:

- i) that the applicant lodged a false report.
- ii) that the telephonic conversation between
the applicant and Altaf Shah which is
retrieved by the forensic experts reveals that

the applicant and the said Altaf Shah were in an illicit relationship.

7 No other circumstance is brought to my notice to connect the applicant to the crime.

8 The learned APP Shri V.A. Thakre would submit that there can not be a direct evidence of conspiracy. The submission, as a proposition of law, is unexceptionable. However, even to bring home the charge of conspiracy, there must be cogent material on record to prove a prior meeting of mind. It may not be appropriate to evaluate the evidence minutely at this stage and it is ultimately for the trial Court to decide whether the material on record is sufficient to convict the applicant.

9 Detention can not be a pretrial punishment. The applicant woman is in jail since 15.1.2018. The first material which is brought to my notice is that the applicant lodged a missing report. However, at least at this stage, no inference can be drawn that when the report was lodged, the applicant knew that the report was incorrect. The second circumstance is that the applicant was in an illicit relationship with Altaf Shah. It is not possible to infer that merely because the applicant was, according to the prosecution, in an illicit relationship with Altaf Shah, she is a party to the crime. These, of course, are prima facie observations and as observed earlier, it would be for the trial Court to come to an appropriate conclusion after the evidence is

recorded.

10 I do not see any justification for the continued incarceration of the applicant in custody. The application is allowed.

11 The applicant be released on furnishing personal bond of Rs. 15,000/- with a solvent surety of like amount.

12 The applicant shall not tamper with the evidence nor shall attempt to influence the witnesses in any manner.

13 The Registry to communicate this order to the trial Court.

JUDGE

RSB