

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****BAIL APPLICATION NO. 159 OF 2019**

Nagina Begum Yusuf Khan

.....Applicant

Vs.

The State Of Maharashtra

.....Respondent

Mr. Rahul Arote for the Applicant.

Mr. S.S. Hulke APP, for the Respondent-State.

CORAM : A. S. GADKARI, J.

DATE : 2nd MAY, 2019.

P.C.:-

This is an Application under Section 439 of the Code of Criminal Procedure for bail in CR No. I-205 of 2018 dated 20th July, 2018 registered with Turbhe MIDC Police Station, Navi Mumbai under Sections 363 and 370 read with Section 34 of the Indian Penal Code.

2 Heard the learned counsel for the Applicant and the learned APP. Perused the entire charge-sheet.

3 The learned counsel for the Applicant submitted that, the other three accused persons namely Majid Abdul Aajid Shaikh, Rais Hazrat Kazi and Manjusha Khatoda, who have been attributed with similar role, have been released on bail by the Trial Court and therefore, the Applicant may be released on bail on the ground of

parity.

4 The learned APP vehemently opposed the said Application and submitted that, it is the Applicant who had promised Smt. Anifa Alla Baksha Shaikh to give a baby boy in adoption to a family who will be able to maintain the said child and it is due to the inducement of the Applicant, the said Anifa Shaikh gave her baby in possession of the other two accused persons. He submitted that, the Applicant therefore, cannot claim parity with other accused persons.

5 A perusal of charge-sheet and in particular, statement of Anifa Shaikh, the mother of the said baby, would indicate that the said woman was facing extreme poverty and begging was her vocation for survival. It is stated that, as she was finding it very difficulty to maintain the child, she decided to give the said baby in adoption to any other family. The record further indicates that when the accused persons contacted a needy family to give the said baby in adoption, the said prospective adopter intimated the said fact to the police and thereafter, a trap was laid and the Applicant has been arrested in the present crime. The record indicates that, the said baby child is now given in the custody of a Child Welfare Home.

6 In view of the above, the Applicant can be released on bail.

Hence the following order-

- a) The Applicant shall be released on bail in CR No. I-205 of 2018 dated 20th July, 2018 registered with Turbhe MIDC Police Station, Navi Mumbai on her furnishing PR bond of Rs.20,000/- with one or two solvent local sureties in the like amount.
- b) The Applicant shall attend each and every date before the Trial Court unless exempted by the concerned Court.
- c) Any two consecutive defaults in complying with the aforestated conditions will attract the provisions of cancellation of bail.
- d) The Applicant shall not tamper with the evidence and/or pressurize the prosecution witnesses.

7 Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)