

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

CRIMINAL BAIL APPLICATION NO. 3292 of 2018

Mumtaz Aslam Panchal @ Kavita Vivek Arawal,
Age 56 years, R/o. 1001, Silver Star,
Plot No.50, Sector-18, Kamothe
New Mumbai.

... Applicant

V/s.

The State of Maharashtra

... Respondent

.....

Ms.Syed Shabana i/b Ayaz Khan for applicant.
Mr.Prashant Jadhav, APP for Respondent-State.

.....

CORAM : PRAKASH D. NAIK, J.

DATE : 11th FEBRUARY, 2019.

P.C.:

This is an application for bail. The applicant is arrested on 21st May, 2018. The First Information Report (hereinafter referred to as 'FIR' for short) was lodged on 23rd December, 2017, vide C.R. No. 219/2017, for offences punishable under Sections 417, 420, 465, 467, 468, 471, 201 and 120B of Indian Penal Code (hereinafter referred to as 'IPC' for short) and Section 12 of Passport Act, 1967, read with Section 14(a) of the Foreigners Act, 1946.

2. The prosecution case is that C.R. No. 17 of 2017, was investigated by the Crime Branch for offences punishable under Sections 370(5), 419, 420, 465, 467, 468, 471, 201 and 120B read with Section 12(1)(2) of Passport Act. During investigation, it is transpired that accused Aslam Rafiq Panchal, his wife Banu Aslam Panchal and Mumtaz Aslam Panchal (applicant) have obtained different passports. Investigation was conducted and charge-sheet was filed. Aslam Panchal was arrested in connection with C.R. No. 17 of 2017 and granted bail. Charge-sheet filed in C.R. No. 17 of 2017 vide Sessions Case No. 607 of 2017. The applicant preferred an application for bail before the Sessions Court, Thane, which was rejected by order dated 24th July, 2018.

3. Learned Advocate for the applicant contends that C.R. no. 17 of 2017, was already investigated and this FIR is the second FIR. It is submitted that investigation is completed and charge-sheet is filed. Further, detention of the applicant is not necessary. The prosecution is relying on the statement of the co-accused. The applicant is wife of accused no.1. She has two minor children. The applicant has not committed any offence amounting to any cheating. The charges under Sections 419 and 420 of IPC are not attracted.

She is not involved in the Act of forgery. The offences under Sections 465, 468 and 471 of IPC are not attracted. The maximum punishment for the offences is upto 7 years. The applicant is in custody from the date of arrest. Reliance is placed on marriage certificate to show that she was married to accused no.1. Reliance is also placed on birth certificate of the applicant's children indicating the date of birth as 21st September, 1993 and the place of birth being Mumbai. The applicant has also relied upon the long term visa, residential permit and various of the documents such as long term visa granted till 12th March, 2018, letter issued by Government of India to the applicant dated 22nd May, 2007 as an assurance letter for renouncing Foreign Nationality in accordance with procedure prescribed by the concerned Embassy in India. Residence permit to the applicant dated 30th December, 1998. Extension of stay order, forms of visa, etc. It is submitted that the marriage of the applicant was solemnized with accused no. 1 on 26th March, 1991.

4. Learned APP submitted that offence is of serious nature. The applicant is involved in preparing false passports. Her long term visa has been expired, which has not been extended. It is submitted that the enquiry with regards to the marriage revealed that the

marriage was not performed. She is from Pakistan. It is further submitted that in the event of grant of bail, the applicant is likely to abscond. The contention about marriage with co-accused is false.

5. The applicant is in custody from 21st May, 2018. Investigation is completed and charge-sheet is filed. It appears that the applicant is in India since long. She has two children. It is contended by the applicant that she is married to accused no.1. The respondent or the concerned authorities can initiate appropriate proceedings with regards to citizenship of the applicant. The co-accused Banu Aslam Panchal was arrested on 16th July, 2018 and she has been granted bail by the Court of JMFC, Vashi vide order dated 17th August, 2018. While granting bail, it is observed that the charge-sheet is filed. Hearing will take its own time. It is the contention of the prosecution that the applicant is Pakistani National, she resides in India on the basis of long term visa. The validity of visa is completed on 12th March, 2018. It appears that the applicant is in India for a long time. The applicant is a lady having two minor children. It is made clear that this Court has not expressed any view on citizenship of applicant. Considering the aforesaid circumstances, bail can be granted to the applicant.

6. Hence, I pass the following order:

ORDER

- (i) Criminal Bail Application No.3292 of 2018 is allowed and disposed off;
- (ii) The applicant is directed to be released on bail in connection with Sessions Case No.40 of 2018 pending before Judicial Magistrate, First Court, at Vashi, arising out of CR No. 219 of 2017 of CBD Belapur Police Station, on furnishing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall report CBD Belapur Police Station, Navi Mumbai, once in a month on every first Saturday between 11 am and 1 pm till further orders;
- (iv) The applicant shall not tamper with evidence and shall attend Trial Court proceedings regularly, unless exempted by the Trial Court for some reason.

(PRAKASH D. NAIK, J.)