

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

CRIMINAL BAIL APPLICATION (ST) NO. 215 OF 2020

Anita Santosh Shinde
V/s.

.. Applicant

The State of Maharashtra

..Respondent

Mr. Sandeep Salunke for the applicant.

Ms. Vaishali Balsumbramanian i/b Jaydeep Mane for the intervenor.

Mr. H.J. Dedhia, APP for the Respondent-State.

CORAM : C.V. BHADANG, J.

DATE : 04th DECEMBER, 2020

P.C.

1. The applicant (accused No.5) along with the co-accused is facing prosecution for the offence punishable under Section 302, 363, 364, 201, 120B read with Section 34 of IPC.

2. The prosecution case is that accused No.1 Tanaji Bhosale was having illicit relations with the present applicant. A conspiracy was hatched by the accused to eliminate Santosh Shinde, the husband of the present applicant who was proving to be a hurdle in the said relations. As a part of the said conspiracy, the deceased was

kidnapped by accused Nos. 1 to 4 on 29.07.2019 at about 4.00p.m. from ST stand Mangalvedha. He was taken to hotel Shivneri where he was made to drink liquor, after showing him video clip of alleged illicit relations between accused No.1 and the present applicant and after the deceased was heavily drunk, he was carried in a Xylo car and thrown in a quarry at Bijapur. The dead body of Santosh Shinde was found on 30.07.2019 at about 4.00 p.m.

3. In this case the investigation is complete and the chargesheet is filed. By a separate order, the applications for bail filed by accused Nos. 1 to 4 have been rejected. Primarily on the ground that accused Nos. 1 to 4 were seen in the company of the deceased, both at ST stand, Mangalvedha and thereafter, at hotel Shivneri. This aspect is prima facie indicated on the basis of CCTV footage at ST stand Mangalvedha and the statement of Rahul Phalke, who is a waiter working at hotel Shivneri. It is true that the motive for the offence is the alleged illicit relations between the present applicant and accused No.1. However, prima facie, except this motive and the fact that accused No.1 and the present applicant were shown to be in contact with each other, on the basis of CDR record, there is no circumstance about last seen together made out against the present applicant. That apart, there are two other special circumstances

which would distinguish the case of the present applicant. The applicant being a lady would be entitled to benefit of the first proviso to Section 437 of Cr.P.C. The applicant is said to be having a daughter which was aged about 6 years at the time of the incident. It was pointed out by the learned counsel for the applicant that there is nobody to look after her. Considering the special circumstance and the fact that the circumstance about the last seen together, is not there against the present applicant and further having regard to the first proviso to Section 437 of Cr.P.C., I find that discretion can be exercised in her favour.

4. In the result, following order is passed:

ORDER

i) The Applicant be released on bail on executing a PR Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.

ii) The Applicant shall undertake to remain present before the learned Sessions Judge, during the course of trial.

iii) The Applicant shall not tamper with the prosecution evidence/witnesses.

iv) Bail bonds to be furnished before the learned Sessions Judge.

v) Criminal bail application is disposed of in the aforesaid terms.

C.V. BHADANG, J.