

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

CRIMINAL BAIL APPLICATION (ST) NO. 2990 OF 2019

Reshma Bano Wasim Shaikh Applicant

Versus

The State of Maharashtra Respondent

Mr. V. S. Tiwari, for Applicant.

Ms. P. N. Dabholkar, APP for State/Respondent.

**CORAM : SARANG V. KOTWAL, J.
DATE : 03rd DECEMBER, 2020**

P.C. :

1. The Applicant is seeking her release on bail in connection with C.R.No. 124 of 2019 registered with Mankhurd Police Station, Mumbai, on 26/04/2019, under sections 302, 201 and 120B r/w. 34 of the Indian Penal Code and under section 37(1) and 135 of the Maharashtra Police Act. The applicant was arrested on 28/04/2019 and since then she is in custody. The investigation is over and the charge-sheet is already filed.

2. Heard Shri. Tiwari, learned counsel for the applicant and Ms. Pallavi Dadbholkar, learned APP for the State.

3. The prosecution story is in respect of murder of one Abdul Karim Shaikh. The F.I.R. is lodged by his sister Faimida. According to the prosecution case, Abdul Shaikh was married to one of the accused Asma. They had strained relations. They had a daughter. Abdul had purchased a room at Sathe Nagar, Mankhurd, but Asma had got it transferred in her name by constantly harassing Abdul. According to the allegations in the F.I.R., Asma had illicit relations with others. She used to provide that particular room to other women who indulged in prostitution. The F.I.R. mentions that the present applicant was Asma's sister. She and one Nasir used to support Asma in her acts. Abdul had got annoyed with all these acts and had left that room. He had taken another room on rent in transit camp at Mankhurd. On 25/04/2019, Nasir stabbed Abdul multiple times in front of his house. He was removed to hospital. There was an eye witness to the incident namely Altaf Shaikh. According to his statement, Nasir was accompanied by two others, but the blows were given by Nasir. The investigation was carried out and the applicant was arrested. The case of the prosecution was that, Asma and present applicant

were annoyed with constant interference of Abdul. They conspired together with Nasir resulting in commission of Abdul's murder. The investigation shows that, a knife was recovered at the instance of Nasir. The blood stained clothes were burnt by Nasir. The identification parade was held in respect of two other accused namely Rizwan and Mayur who had accompanied Nasir. The only evidence worth mentioning against the applicant was in the nature of statement of one Irshad who had allegedly seen and heard Asma and present applicant instigating Nasir to commit murder of Abdul.

4. The learned counsel for the applicant submitted that the only statement against the present applicant in the entire charge-sheet is that of one Irshad Qureshi. His statement was recorded on 13/07/2019. His statement is recorded belatedly after arrest of the applicant. He submitted that, evidence against the applicant is very weak. The applicant has three school going children aged 5, 8 and 12 years.

5. The learned APP, on the other hand, relied on the statement of Irshad and submitted that the conspiracy is reflected

in the statement. Specific role of instigating Nasir by the applicant and Asma is mentioned in that statement. She, therefore, opposed grant of bail.

6. I have considered these submissions. The post-mortem notes show that the deceased had suffered as many as 15 injuries, out of them there were three stab injuries on the chest. The cause of death was stab injuries. However, the injuries are specifically attributed to the accused Nasir. The prosecution case is very specific that, Nasir with his two companions had confronted Abdul Karim. Nasir himself had stabbed the deceased with knife. There is nothing in the entire charge-sheet to show that the present applicant was present on the spot when the incident had occurred. As rightly pointed out by the learned counsel for the applicant, the only statement in the entire charge-sheet against the present applicant is that of one Irshad Qureshi. His statement was recorded on 13/07/2019 i.e. not only after the incident but much belatedly even after arrest of the applicant. Even his statement is not very specific. Utterance of instigation to Nasir is attributed to both Asma and applicant together. Belatedly recording of this

statement, in any case, throws doubt on the truthfulness of this version. In this background, there is hardly any evidence against the present applicant, beside this statement. This statement is also a weak piece of evidence. Therefore, I am inclined to grant bail to the present applicant.

7. Hence, the following order :

ORDER

- (i) In connection with C.R.No. 124 of 2019 registered with Mankhurd Police Station, Mumbai, the applicant is directed to be released on bail on her furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
- (ii) Looking at the prevailing circumstances, it may not be possible for the applicant to furnish sureties immediately. Therefore, initially the applicant is permitted to furnish cash bail for the same amount. The applicant will have to furnish the sureties, as directed, within three months from today.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)