

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1514 OF 2020

SHAKILABEGUM @ NILOFAR D/O BABU SHAIKH
VERSUS
THE STATE OF MAHARASHTRA

...
Mr. Mohsin Khan Pathan, Advocate for the applicant.
Mr. N. T. Bhagat, APP for the respondent – State.
...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 9th March, 2021

ORDER :-

. Present third bail application has been filed by the accused who has been arrested on 25.11.2019 in connection with Crime No.440 of 2019 by Jinsi Police Station, Aurangabad for the offence punishable under Section 302 of Indian Penal Code. Present application has been filed by her under Section 439 of the Code of Criminal Procedure.

2. Heard learned Advocate Mr. Mohsin Khan Pathan for the applicant and learned APP Mr. N. T. Bhagat for the respondent- State. In order to cut short, it can be said that both the learned Advocates have made submissions supporting their respective contentions.

3. Learned Advocate for applicant has submitted that though applicant has been arrested in the year 2019, yet the matter has not

progressed. It is submitted on behalf of the applicant that her father is suffering from HIV. His condition is critical. She has two daughters, who are grown up and need her care. Her mother is engaged in looking after her father and, therefore, there is nobody to look after her daughters. He has relied on the decision in *Bhupinder Singh v/s. Unitech Ltd*, [Civil Appeal No. 10856/2016 with IA Nos. 57718/2020 & 57741/2020 in SLP (Crl) Nos. 5978-5979/2017) decided by Hon'ble Apex Court on 07.07.2020; wherein parents of the applicant therein were aged 81 and 78 years and they were tested positive for Covid-19 and, therefore, interim relief was granted. Learned Advocate for the applicant has prayed for interim bail.

4. Learned APP submitted that after this Court had directed him to take instructions, he has received information that applicant has two brothers who can look after their father. There is ample evidence against applicant and her prayer for release on bail has been already rejected by this Court on two occasions.

5. At the outset, it can be seen that present application has been filed only for interim bail. Bail Application No.700 of 2020 filed by present applicant was rejected by this Court by passing a detailed order on 10.09.2020. Thereafter, Bail Application No.95 of 2020 filed by her for

bail under Section 439 of Code of Criminal Procedure was withdrawn by her on 28.02.2020, after the disinclination shown by this Court. Now, this is her third application. Since the applicant is praying for interim bail, we need not go into merits; however, when this Court has already rejected her bail application on merits and she has not shown any change in the circumstance, then her present application also deserves to be rejected.

6. It has been posed by the applicant that her father is critical and there is nobody to look after him. However, when asked about the family members, learned Advocate for the applicant is now coming with a fact that there are two brothers to applicant, but they are not looking after the father. Applicant cannot change her stand in such fashion. She has not filed any document showing his brothers are residing separately and they are not taking care of their father. Applicant has produced medical documents of her father. It appears that he is suffering from HIV since 2008. He appears to be under treatment, but none of those document show that he has been hospitalized. The offence in this case has taken place on 25.11.2019. Therefore, for such past reason, she cannot be granted interim bail. The reason in respect of her daughters was available when she had filed two applications earlier.

7. Now, the allegations against the applicant are certainly required to be considered. Informant is one Kapil Talekar. His sister Vidya was the friend of present applicant. Vidya was married. Vidya had pledged her gold ornaments and had given handloan to present applicant. Applicant was not returning the amount, though requested several times by Vidya. Vidya had gone to meet applicant on 24.11.2019. She had told informant that she would ask applicant to give amount. Informant received phone call from accused-applicant at about 10.30 p.m. on 25.11.2019 stating that Vidya is quarreling with her and he should come to take her. When informant went to the house of applicant, he found Vidya in injured condition. Vidya's husband and another sister were called. Vidya was taken to hospital but was declared dead. After the investigation, it has been transpired that the present applicant had stabbed Vidya. The weapon has been discovered by her. If the postmortem report is seen, then it would reveal four stab injuries, one incised wound and three abrasions. When Vidya was found in the house of applicant with such injuries, there appears to be *prima facie* evidence against applicant. When such circumstances are there, and there is frequent attempt on the part of the applicant for bail, then her prayer for interim bail also cannot be considered. On the basis of facts before Hon'ble Apex Court, interim bail was granted to applicant therein.

Present applicant cannot take advantage of that order. There is no substance in the contention of the applicant, hence, present application stands rejected.

[SMT. VIBHA KANKANWADI, J.]

scm