

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

ANTICIPATORY BAIL APPLICATION NO. 353 OF 2021

Akhatri Begum Zake Shaikh ... Applicant

Versus

The State of Maharashtra ... Respondent

.....

Mr. Jigar K. Agarwal a/w. Mr. Amrish Salunke, Advocate for the Applicant.

Ms. Anamika Malhotra, APP for the Respondent – State.

Mr. Rushikesh Babar, (P.S.I.) Trombay Police Station, Present.

.....

CORAM : PRAKASH D. NAIK, J.

DATE : 23rd MARCH, 2021

PER COURT:

1. This is an application for anticipatory bail in C.R. No.153 of 2019 registered with Trombay Police Station, Mumbai for offences under Section 326, 323, 504, 506 r/w Section 34 of Indian Penal Code (for short “IPC”).

2. The First Information Report was lodged on 17th May, 2019 by Nadim Ahmed Shaikh. It was alleged that on 16th May, 2019, Akram Khan along with Mujffar Shaikh, Kamlesh Jadhav and Shiva Gupta had conspired on account of previous quarrel and assaulted the complainant by fist and kick blows and also threatened him. Mujaffar Shaikh had assaulted by knife by giving blow on his thy and

RajeP.
Aher
Digitally
signed by
RajeP. Aher
Date:
2021.03.25
21:22:32
+0530

caused injury to him.

3. Subsequently supplementary statement of the complainant was recorded on 22nd May, 2019, alleging that the applicant was present at the place of incident and the applicant tried to assault by knife to the complainant. In the supplementary statement, the complainant has exonerated Shiva Gupta and Kamlesh Jadhav.

4. Learned counsel for the applicant submits that the applicant is lady. She had no role to play in the crime. She has been falsely implicated in this case. She was not named in the FIR. She was implicated in the supplementary statement which was recorded belatedly. She was not armed with any weapon.

5. Learned APP submitted that although the applicant has not been named in the FIR, in the supplementary statement specific role has been attributed to the applicant. Apart from that before the supplementary statement of the complainant being recorded, the statement of another eye witness was recorded who has attributed specific overt act to the applicant. At this stage there is sufficient evidence to show complicity of the applicant in the crime. The injured had sustained serious injury. The benefit of any discrepancy cannot be given to the applicant at this stage. Learned APP relied

upon the supplementary statement of Nadim Shaikh and the statement of another eye witness Imran Abdul Kadar Shaikh and submitted that identical role was attributed by both these witnesses to the applicant.

6. The first informant is the injured witness. He has attributed role of assault to the persons named therein. It appears that he knows the applicant. There is no reference to her involvement in the FIR. The complainant has implicated the applicant subsequently. It is true that one of the eye witness whose statement was recorded before the supplementary statement of the complainant has named the applicant. It is relevant to note that the statement was recorded after two days from the incident. The applicant is lady. She was not armed with any weapon. She had allegedly instigated the co-accused. It is also pertinent to note that the complainant has deviated from his previous statement by exonerating two persons, who had allegedly participated in the crime.

7. The applicant was granted interim protection vide order dated 25th February, 2021. The applicant has attended police station which is evident from the acknowledgment produced by the learned counsel for the applicant. Considering these circumstances, interim

protection granted to the applicant can be confirmed. Hence, I pass the following order:-

ORDER

- (i) Anticipatory Bail Application No. 353 of 2021 is allowed;
- (ii) interim protection granted by this Court vide order dated 25th February, 2021 is confirmed.
- (iii) In the event of arrest of the applicant in connection with in C.R. No.153 of 2019 registered with Trombay Police Station, Mumbai, the applicant be released on bail on furnishing P. R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iv) The applicant shall attend the investigating officer as and when called for.
- (v) Anticipatory Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)