

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

ANTICIPATORY BAIL APPLICATION NO.2707 OF 2021

BHALCHANDRA
GOPAL DUSANE

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Date: 2021.11.16
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Hamida Muzaffar Shaikh Applicant

Vs.

The State of Maharashtra Respondent

Mr. Gaurav Bhawnani i/by Khan Abdul Wahab for Applicant.
Ms. A.A. Takalkar, APP for State of Maharashtra.
PSI, D.B. Kadu, Shivaji Nagar PS., Mumbai

Coram : NITIN W. SAMBRE, J.
Date : 15TH NOVEMBER, 2021

P.C.:

1. The applicant is seeking pre-arrest bail in Crime No. 910 of 2021, registered with Shivaji Nagar Police Station, Mumbai, for the offence punishable under Sections 302, 323, 504, 141, 143, 145, 147, 149, 452 of the Indian Penal Code and 37(1)(A), 135 of Maharashtra Police Act.

2. The prosecution case against the applicant is, the complainant used to ply auto-rickshaw owned by son of applicant no. 1

on rental basis and used the same in commission of offence of theft. The complainant accordingly was apprehended during the investigation in which, he named the son of the applicant as one of the co-accused. So as to object the aforesaid conduct of the complainant, the applicant formed unlawful assembly with common intention and went to the place of the complainant, assaulted his nephew, Sohail resulting into his death. As such offence in question.

3. The submissions are, the applicant was holding minor child of two years with her and the allegations are without any basis. It is further claimed that there are CCTV footage, which are required to be appreciated and that being so, the applicant is entitled to be released.

4. The prayer is opposed by the learned APP.

5. Considered the submissions.

6. Perused the investigation papers.

7. The very presence of the applicant at the spot of incident alongwith other co-accused applicant's son, daughter etc. can be very much inferred. Even if daughter of the applicant has suffered injury,

same is investigated by the I.O. I.O. has already initiated process for collection of CCTV footage.

8. Deceased Soheli was nephew of the complainant, died of head injury and specific role is attributed to the son of the applicant in the matter of assault. The very presence of the applicant on the spot of incident can be inferred as she herself has lodged a complaint to the Police about the incident alleging assault by complainant.

9. The very intention of the applicant is apparent particularly having regard to the registration of offence against the complainant in the matter and use of auto-rickshaw owned by the son of the applicant for which issue, the applicant alongwith her relative went to the place of complainant and assaulted them.

10. There is sufficient material to infer prima facie involvement of the applicant in the crime. No case is made out for grant of bail. The application as such stands rejected.

(NITIN W. SAMBRE, J.)