

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO.1458 OF 2022

Khaja s/o Totan Sayyad ... **APPLICANT**

VERSUS

The State of Maharashtra ... **RESPONDENT**

.....

Mr. N.S. Ghanekar, Advocate , Advocate for applicant
Mr. V.S. Badakh, A.P.P. for respondent – State

.....

WITH

BAIL APPLICATION NO.1473 OF 2022

Hanifa w/o Shakil Shaikh ... **APPLICANT**

VERSUS

The State of Maharashtra ... **RESPONDENT**

.....

Mr. Imran Khan Guftar Khan Pathan, Advocate for applicant
Mr. V.S. Badakh, A.P.P. for respondent – State, assisted by
Mr. S.J. Salunke, Advocate for original complainant

.....

WITH

CRIMINAL APPLICATION NO.3199 OF 2022

Akhila Shaikh Irshad ... **APPLICANT**

VERSUS

The State of Maharashtra & anr. ... **RESPONDENTS**

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Mr. S.J. Salunke, Advocate , Advocate for applicant
Mr. V.S. Badakh, A.P.P. for respondent – State, assisted by
Mr. Imran Khan Guftar Khan Pathan, Advocate for complainant

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CORAM : R. G. AVACHAT, J.

DATE : 21st SEPTEMBER, 2022.

ORDER :

Criminal Application No.3199/2022 is allowed.
The original complainant is permitted to assist learned A.P.P.

2. Heard. Both these applications for bail under Section 439 of the Code of Criminal Procedure are taken together as they arise from one and the same Crime No.198/2021, registered at Majalgaon Rural Police Station, District Beed for the offences punishable under Sections 307, 323, read with Section 34 of the Indian Penal Code.

3. The First Information Report (F.I.R.) has been lodged by Akhila (applicant in Criminal Application No.3199/2022) on 4/8/2021. It is her case that, she is blessed with four minor children. Her husband has been murdered by her mother-in-law, brother-in-law and sisters-in-law as well on 8/3/2021. It is further her case that, by 3.00 p.m. on 4/8/2021, her mother had come her home. Her minor children were playing with their grandmother. The informant was busy in house-cleaning. Her mother-in-law Hanifa (applicant in Bail Application No.1473/2022) along with

her son-in-law Khaja (applicant in Bail Application No.1458/2022) came her home together. The informant's two sisters-in-law were present outside her residence. Applicant Khaja caught-hold of the informant's both wrists. Applicant Hanifa emptied a diesel bottle on informant's person. She ignited a match-stick with an intention to set the informant afire. On hearing cries of the informant, her mother rushed to her and removed the match box and match stick from the applicant Hanifa. It is also her case that, her sisters-in-law immediately entered her house. They thrown water-laced chilly powder on the person of the informant's brother and her father-in-law.

It is further the case of the informant that, the applicants had come her home first to compel her to settle the crime registered against them for having committed murder of the informant's husband. On investigation, the charge sheet has been filed.

4. Learned counsel for the applicants would submit that, all is not well amongst the family members. Even the delay of a few hours leads to observe the contents of the F.I.R. to have been afterthought and concocted one. The nature of injuries suffered by the informant are superficial and

could even be self-inflicted, since she had an axe to grind against the applicants herein. The learned counsel, therefore, urged for grant of the bail applications.

5. The learned A.P.P. and the learned counsel for the original complainant would, on the other hand, submit that, the applicant Hanifa has criminal tendencies. She is an accused of committing murder of her own son. She has been granted bail with a condition not to commit any criminal act. The commission of present crime is nothing but breach of condition of bail. The learned counsel for the intervener would further submit that, the husband of the applicant Hanifa speaks against her. The same itself would speak what kind of lady she is. According to the learned counsel, with the grace of God the informant was saved. He, therefore, urged for rejection of the bail application of applicant Hanifa.

6. Perused the F.I.R. and the related papers. On investigation, the charge sheet has been filed. It is true that, the applicant Hanifa is one of the accused in an offence of murder of her own son. She has been granted bail with a condition not to indulge in criminal activities. Admittedly, all is not well between the informant and her father-in-law on one hand and the applicants and other in-laws of the

informant on the other. The investigation papers indicate that, clothes on the person of the informant at the material time, were found with no residues of either diesel or petrochemicals. On the following day, an empty bottle with petroleum residues found at the scene of offence. The learned counsel for the applicants may have reason to contend the same to have been planted. The applicant Hanifa is a woman. She has been behind the bars for over four months. From the facts and circumstances of the present case, it could only be observed as to whether she has really breached the condition of bail, could only be ascertained if the present crime is proved to be committed by her. In the facts and circumstances, this Court is inclined to grant the applications. Hence the order :-

ORDER

- (i) The Bail Applications are allowed.
- (ii) The applicants be released on bail in connection with Crime No.198/2021, registered at Majalgaon Rural Police Station, District Beed for the offences punishable under Sections 307, 323, read with Section 34 of the Indian Penal Code on their executing P.R. bonds in the sum of Rs.15,000/-

(Rupees fifteen thousand) each with one or two sureties in the like amount by each of them.

(iii) The applicants shall not tamper with the prosecution evidence.

(R. G. AVACHAT, J.)

fmp/-