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

BAIL APPLICATION NO.866/2022

AASAMA MUSHRAF QURESHI ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Mr. Kuldeep Patil i/b. Ms. Saili N. Dhuru for the applicant.
Ms. P. N. Dabholkar, APP for State.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 5, 2022.

P.C. :

1. Heard learned counsel for the applicant and learned APP for the State.

2. This is an application for bail in respect of the First Information Report (FIR) No.I-183/2016 registered with Shil Daighar Police Station for the offence punishable under Sections 394, 395, 396, 302, 120-B read with 34 of the Indian Penal Code, 1860 (hereafter 'the IPC' for short). Later on, pursuant to the grant of approval, the offence punishable under Sections 3(1)(ii), 3(2), 3(4) of the Maharashtra Control of Organised Crime Act, 1999 (hereafter 'MCOCA' for short) were added.

3. The applicant was arrested on July 22, 2016. She is in custody for last six and half years. There was one antecedent reported against her under Sections 376, 370, 366(2) of the IPC read with Sections 3, 4, 16 of the Protection of Children from Sexual Offences Act, 2012 and Section 5, 9 and 32 of the Immoral Traffic (Prevention) Act, 1956.

4. The applicant is the original accused no.5. The offence is registered against six accused. In brief, it is alleged that on July 18, 2016, the applicant and one of the co-accused Javed @ Mamu Habib Shaikh were sitting in a bar. They noticed Shabbir Khan (deceased) wearing a gold chain. The applicant and Javed informed the other accused about this. The applicant and Javed requested Shabbir for lift on his motorcycle. Upon reaching a particular spot, Shabbir was accosted by the other accused. The applicant and Javed left the spot. Shabbir resisted the other co-accused. It is alleged that one of the accused stabbed Shabbir. Shabbir succumbed to the injuries. The gold chain was snatched.

5. Pursuant to the approval granted, the sections under

MCOCA abovementioned were added. The affidavit-in-reply has been filed by concerned officer on behalf of the prosecution. It is pointed out and it is an admitted position that the gang leader by name Mosim Rafiq Shaikh has been released on bail. The recovery of gold chain was from Mosim. The affidavit reveals the offences which have been registered against Mosim (gang leader). In none of the these offences the applicant is implicated.

6. Even in respect of the present case the role of the applicant was to inform the other co-accused about the deceased wearing a gold chain and taking a lift from him upto the spot of the incident. The applicant was not actually present when other accused assaulted the deceased. There is no recovery at her instance. There is no possibility of the trial commencing any time soon in the near future. There is one criminal case reported against the applicant which is mentioned hereinabove. The antecedent by itself, in my opinion, will not be sufficient to refuse bail to the applicant, a woman, who has been in custody for more than six and half years. Her daughter was 2 years of age when she was

arrested and is now 8 years of age. The chargesheet has been filed. The applicant can be released on bail by imposing some stringent conditions. Hence the following order.

ORDER

- (A) Application is allowed.
- (B) Applicant - Aasama Mushraf Qureshi shall be released on bail in connection with FIR No.I-183/2016 registered with Shil Daighar Police Station, on furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.
- (C) The applicant shall report to the concerned police station once in a month on every Wednesday, between 10.00 a.m. and 12.00 noon till further orders.
- (D) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.
- (E) On being released on bail, the applicant shall furnish her contact number and residential address to

the Investigating Officer and shall keep him updated, in case there is any change.

(F) The applicant shall attend the trial Court on the dates of hearing regularly, unless exempted by the Court for some reason.

(G) The applicant shall not leave the jurisdiction of Shil Daighar Police Station, Thane District, without intimation to the trial Court.

7. The application is disposed of.

(M. S. KARNIK, J.)