

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

ANTICIPATORY BAIL APPLICATION NO.1374 OF 2022

Mrs.Nusrat Khatoon Ziyaul Ansari and anr. ... Applicants
V/s.
The State of Maharashtra ... Respondent

Ms.Saima Ansari, Advocate for the Applicants.
Mr.S.V.Gavand, APP for the Respondent/State.

**CORAM : SMT. BHARATI H.DANGRE, J.
DATE : MAY 26, 2022.**

P.C.:

1. The two applicants being Nusrat Khatoon Ziyaul Ansari and Raunak Abdul Salam Ansari are apprehending their arrest in C.R.No.33 of 2022 registered with Nizampura Police Station, Taluka Bhiwandi for the offence punishable under Sections 304, 323, 504, 506 r/w 34 of Indian Penal Code.

2. The incident in question took place on 9th February, 2022 in the building located in Tulsi Nagar, Khadipar, Bhiwandi. The complainant is one Vasima Khatoon Jamshed Ahmed Shaikh who is the resident of Munna Bulidng, Room No.201 and she continue to reside their alongwith her mother Makina Ansari aged 60 years.

3. On 9th February, 2022 at around 11.45 p.m. when a quarrel ensued between her neighbour Ziyaul and herself, it is alleged by the complainant that Ziyaul brought his wife Nusrat who also

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participated in the quarrel. Thereafter, it is alleged that Ziyaul brought cricket bat and even the husband of the complainant arrived on the spot. Ziyaul assaulted complainant's husband by bat and it is alleged that Nusrat's sister Raunak i.e. applicant No. 2 and her brother also arrived at the spot who also started assaulting the complainant's husband. The complainant specifically alleged that Raunak assaulted her by hands and Nusrat kicked her in her stomach. A lot of commotion was going on and on hearing this, her mother came out and at that time Ziyaul pushed her. The mother of the complainant who had difficulty in breathing fell down and when an attempt was made to offer her assistance, it is alleged that the two applicants caught hold of her so as to restrain her from intervening. In the entire incident, the complainant's mother aged 60 years suffered from high blood pressure and expired. This resulted in registration of C.R. invoking Sections 304, 323, 504, 506 r/w 34 of Indian Penal Code.

4. On perusal of the compliant and the papers place on record which include the Post Mortem report of deceased where the cause of death has been attributed to pulmonary shock with hepatomegaly. In any case, the said injury sustained by the deceased is not attributed to applicants and as per eye witness present on the spot the role attributed to the two applicants is of

assaulting the complainant and restraining her from coming to rescue to her mother. In the wake of the aforesaid facts emerging from the material collected by the Investigating Officer, no custodial interrogation of the two applicants is warranted as they in any case cannot be charged independently of Section 304 and with the aid of Section 34 of Indian Penal Code, they can be imposed with an appropriate penalty. However, at this stage, it is also informed that charge-sheet is also filed against the co-accused. Hence, the following order:-

ORDER

- (a) Application is allowed.
- (b) In the event of their arrest, the Applicants shall be released on their furnishing P.R. bond of Rs.25,000/- each with one or two sureties of the like amount.
- (c) They shall report to the concerned Police Station on Thursday at 10.00 a.m. to 2.00 p.m. for a period of four weeks and thereafter, as and when directed.
- (d) They 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 them from disclosing the facts to Court or any Police Officer and should not tamper with the evidence.
- (e) The application stands disposed in above terms.

(SMT. BHARATI H. DANGRE,J.)

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