

GRM

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

CRIMINAL BAIL APPLICATION NO. 1709 OF 2022

ZARINA YASIN SHAIKH

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Mr. Priti R. Mahajan a/w Mr. Santosh B. Patil, Adv. for the
applicant.

Mr. N. B. Patil, APP for the Respondent-State.

Mr. Nilesh Kanade, API, Kalwa Police Station, Thane.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 9, 2022.

P.C. :

- 1.** Heard learned Counsel for the applicant.
- 2.** This is an application for bail. On earlier occasions, the applications for bail have been rejected vide orders dated 31/08/2019, 13/11/2019, 17/12/2019 & 23/06/2021. The date of incident is 28/06/2019. The applicant was arrested on 29/06/2019.
- 3.** It is alleged that the marriage of applicant's daughter with Dinesh Chauhan was not acceptable to the applicant being an inter-caste one. It is further alleged that on the date of incident, Ramesh, who is the brother of Dinesh, was

assaulted by the applicant as well as her sons. Order dated 17/12/2019 passed by this Court records the incident. The said order reads thus :-

“1. Heard learned Counsel for the parties. It is an application under Section 439 of the Criminal Procedure Code in C. R. No. I-311-2019 registered for the offences punishable under Sections 143, 147, 148, 149 read with Section 302 of the Indian Penal Code.

2. Applicant is mother-in-law of Dinesh Chauhan. Deceased Ramesh is the brother of Dinesh Chauhan. Evidence shows, on 28th June, 2019 at 6.30 p.m. the applicant, her three sons and a friend of accused no. 1 in prosecution of common object, murdered Ramesh. Incident is witnessed by Akshay and Dinesh Chauhan. Though, lethal assault was by accused no. 1 (son of the applicant), evidence suggests, applicant instigated him. I have no reason to disbelieve the statements of eye-witness. In this view of the matter, Bail Application is rejected.”

4. Learned Counsel for the applicant submitted that the applicant is a woman, who is in custody now for more than 3 years and 5 months. There is no possibility of the trial commencing or concluding in the near future. The applicant is now 52 years old.

5. Learned APP for the State opposed the application. He submitted that once this Court has taken a view that the applicant has instigated and her sons committed the

offence in prosecution of common object, which resulted into the murder of Ramesh, it will not be open for this Court now to take a different view of the matter.

6. No doubt, this Court had rejected the bail application vide order dated 17/12/2019 observing that the applicant was instigating the assailants. However, I cannot lose sight of the fact that almost 3 years have passed after passing of the order and there is no sign of the trial proceeding. The role assigned to the applicant is that she assaulted the deceased Ramesh with a footwear (chappal) and was instigating the assailants. The charge-sheet in the matter has been filed long back and the investigation is complete.

7. Considering the fact that the applicant is a woman and now is in custody for more than 3 years and 5 months, when there is no possibility of the trial concluding any time in near future, in my opinion, the applicant can be released on bail. No criminal antecedents are reported. In the result, the following order is passed :-

ORDER

(a) Criminal Bail Application No. 1709 of 2022 is allowed.

- (b) The applicant-ZARINA YASIN SHAIKH shall be released on bail in connection with C.R. No. I-311 of 2019 registered with Kalwa Police Station for the offence punishable under Sections 302, 143, 147, 148 & 149 read with 34 of the Indian Penal Code, 1860, on her furnishing P.R. Bond of Rs. 50,000/- (Rupees Fifty Thousand Only) with one or more sureties in the like amount.
- (c) The applicant shall not tamper with the evidence of prosecution witnesses.
- (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 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) Though the applicant is a resident of Kalwa, she shall not reside in the area of Kalwa till the trial is over.
- (g) Criminal Bail Application No. 1709 of 2022 is disposed of accordingly.

(M. S. KARNIK, J.)