

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

CRIMINAL APPEAL NO.868 OF 2022

Parveen A. Hamid Shaikh Appellant

versus

State of Maharashtra & Anr. Respondents

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- Mr. Rahul B. Vijaymane, Advocate for Appellant.
- Mr. S. R. Agarkar, APP for the State/Respondent No.1.
- Mr. Mohammad S. Mulla, Advocate for Respondent No.2.

CORAM : SARANG V. KOTWAL, J.
DATE : 14th OCTOBER, 2022

P.C. :

1. This an Appeal challenging the order passed by the Special Judge, Solapur, on 21/05/2022. The Appellant is seeking anticipatory bail in connection with C.R.No.158/2022 registered with Jail Road police station, Solapur, u/s 452, 506 r/w 34 of the Indian Penal Code and u/s 3(1)(f) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and u/s 92 of Disability Act.

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2. The FIR is lodged by the Respondent No.2. He has stated that his mother was allotted a house in Muslim Paccha Peth, Solapur. The house consisted of four rooms. The informant got rights regarding that house through his mother by inheritance. The FIR mentions that his father had given one room to one Fatima on compassionate grounds. Fatima's brother Usman Bagwan used to visit her off and on. In 2007 Fatima passed away. The first informant locked that room. But Usman broke that lock and occupied that room. Since then, the informant is asking him to vacate that room. But till today, Usman has not vacated that room. In the year 2003 one Jalalvi Babulal Shaikh had requested the informant's father to give one room to the Appellant herein because she had delivered twins. The informant's father gave one room to the Appellant and her husband for a period of six months. But even after the period of six months was over, the Appellant and her husband did not vacate the room. It is alleged that all the accused including the Appellant refused to vacate the room and instead were asking the informant to sell that house to them. It is alleged that the

accused abused him and threatened him with reference to his disabilities. On those allegations, the FIR is lodged.

3. Heard Mr. Rahul B. Vijaymane, learned counsel for the Appellant, Mr. Mohammad S. Mulla, learned counsel for Respond No.2 and Mr. S. R. Agarkar, learned APP for the State.
4. Learned counsel for the Appellant submitted that the other two accused Usman and the Appellant's husband Abdul Hamid Shaikh are already arrested and released on bail. The Appellant is a lady and there is no specific role attributed to her in the entire complaint. The room is occupied by the entire family. There are no steps taken by the informant by approaching the Civil Court for vacating room and instead this FIR is lodged to pressurize the Appellant's family.
5. Learned counsel for the Respondent No.2 as well as learned APP submitted that since the Appellant's family is occupying the room unauthorizedly the offence as alleged is

made out. Besides this the informant was also abused and threatened and therefore anticipatory bail cannot be granted to the Appellant.

6. I have considered these submissions. Though, there are allegations of occupying the informant's room illegally, the informant himself as not taken any steps to approach the Civil Court. The main accused i.e. Usman Bagwan and Abdul Hamid Shaikh are already released on bail. There is no specific role attributed against the present Applicant. There are only general allegations. Therefore considering all these aspects. The Appellant can be protected.

7. Hence, the following order :

ORDER

- (i) In the event of her arrest in connection with C.R.No.158/2022 registered with Jail Road police station, Solapur, the Appellant is directed

to be released on bail on her furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.

(ii) The Applicant shall co-operate with the investigation.

(iii) The Appeal stands disposed of.

(SARANG V. KOTWAL, J.)