

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2771 OF 2021

Nabiha Sohail Nunshi] ... Applicant

Vs.

The State of Maharashtra] ... Respondent

ALONG WITH
INTERIM APPLICATION NO.427 OF 2022

Zaheda Abdulla Munshi] ... Applicant

Vs.

The State of Maharashtra & Anr.] ... Respondents

...

Mr. R.R. Varma i/b Mr. Sanket Thorat, Mr. Rohit Jaiswal and Mr. Sachin Suware for the applicant.

Mr. S.V. Gavand, A.P.P. for the State.

None for the Intervenor.

Mr. Yuvraj Saigude, API attached to Vashi Police Station is present in the court.

...

CORAM : SMT. BHARATI DANGRE, J.

DATED : 07TH JUNE, 2022.

P.C.:-

1. On 22/11/2021, the applicant, who was accused of committing an offence punishable under Section 304 Part II and Section 182 of the Indian Penal Code along with the relevant provisions of the Motor Vehicles Act, was admitted to protection from arrest, with certain conditions imposed upon her. The said order records that there is unexplained delay in lodging the FIR.

2. The applicant, who is alleged to have been driving the four wheeler is accused of intentionally causing the accident, so as to ensure death of her husband Sohail. This accusation comes against the present applicant after almost four months of the incident, which took place on 12/05/2021, when the applicant was travelling with her husband and three minor children, the vehicle met with an accident and her husband succumbed to the injuries sustained by him. The sister-in-law of the applicant is the complainant, who suspected that her brother was intentionally made to meet with the accident since the applicant wanted to get rid of him as she was carrying an affair outside the marriage.

3. Learned A.P.P. does not dispute that the applicant has co-operated with the investigation, as directed by this court. Learned A.P.P. also informs that the CCTV footage at Vashi Toll

Naka, through which the vehicle was passed, would have provided an indication as to who was actually driving the vehicle since the case of the applicant was she does not know the driving and the vehicle was being driven by the deceased himself. However, it is informed that the CCTV was not working and this aspect of the matter could not be analyzed.

4. Here is an applicant, who has lost her husband in the accident and the manner in which the accident is alleged to have taken place in the complaint, would have surely caused injuries to her three minor children, which *prima facie*, could not have been the intention of the applicant. In any case, since the investigation is at the fag end, as per learned A.P.P., it does not warrant her custodial interrogation. The order dated 22/11/2021 is, therefore, made absolute.

5. The application is disposed off.

6. In view of the disposal of the anticipatory bail application, the intervention application does not survive and is disposed off as such.

[SMT. BHARATI DANGRE, J.]