

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

ANTICIPATORY BAIL APPLICATION NO. 2086 OF 2023

Samdani Mehtab Mattekthane Applicant
v/s.
The State of Maharashtra Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO. 2087 OF 2023**

1) Anjum Samdani Mattekthane
2) Waheda Ilahi Peerjade Applicants
v/s.
The State of Maharashtra Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO. 2096 OF 2023**

Taufiq Ilahi Peerjade Applicant
v/s.
The State of Maharashtra Respondent

Ms. Vilasini B. a/w. Mr. Jaydeep Dhananjay Mane for the Applicant.
Mr. S.H. Yadav, APP for the State.
Ms. V.A. Jadhav, API, Vijapur Naka Police Station, present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 28th JULY, 2023.

P. C. :-

. The Applicants apprehend their arrest in C.R.No.347/2023 registered at Vijapur Naka Police Station, Solapur City for offences punishable under sections 315, 323, 504 r/w. 34 of the Indian Penal Code.

2. Heard learned counsel for the Applicants and learned APP for the State. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The aforesaid crime was registered pursuant to the FIR lodged by Muskan Baputaj Patil. The facts narrated in the FIR prima facie reveal that on 14/06/2023, at about 02:00 p.m., the Applicants had come to the house of the first informant and that the Applicants – Anjum Mattekhan and Waheda Peerjade abused the first informant and threw her down. They also assaulted the husband and mother-in-law of the first informant. It is stated that the Applicant – Samdani kicked the first informant due to which she started bleeding. She was taken to the hospital. The pregnancy test revealed that she was pregnant. She has stated that Doctor subsequently told her that she had a miscarriage. On the basis of these allegations, crime came to be registered against the Applicants for the aforesaid offences.

4. The offences under sections 323 and 504 are bailable. Section 315 covers the stages, one prior to the birth of the child and the other after the birth of the child. To constitute an offence under this section, the accused person should do an act with an intention of preventing

the child from being born alive or causing it to die after its birth. In the instant case, the first informant was herself not aware of her pregnancy. Hence, there would be no question of the Applicant – Samdani kicking the first informant with an intention of preventing the child from being born. Hence, prima facie, the offence under section 315 is not attracted.

5. Considering the nature of accusations and the material in support thereof, this is a fit case to exercise discretion under section 438 of Cr.P.C. Hence, the Applications are allowed on the following terms and conditions :-

(a) In the event of arrest of the aforesaid Applicants in C.R.No.347/2023 registered at Vijapur Naka Police Station, Solapur City, they shall be released on bail on furnishing bail bonds in the sum of Rs.25,000/- each with one or two sureties in the like amount ;

(b) The Applicants shall report to the Investigating Officer for two days i.e., 31/07/2023 and 01/08/2023 between 11:00 a.m. to 02:00 p.m. and further as and when required by the Investigating Officer ;

(c) The Applicants shall not interfere with the complainant and the other witnesses and shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case in any manner ;

(d) The Applicants shall keep the Investigating Officer informed of their current address and mobile contact numbers, and/or change of residence or mobile details, if any, from time to time.

6. The Applications stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)

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HEERO
JAYANI

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JAYANI
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