

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2768 OF 2022

Ayesha Bibi Abjal Molla

.... Applicant

Versus

The State of Maharashtra

.... Respondent

Mr. Prabhanjay R. Dave along with Mr. Pradeep P. Kumawat,
Advocate for the Applicant.

Mr. A. A. Palkar, APP for Respondent-State.

CORAM : SHIVKUMAR DIGE, J.

DATE : 20th OCTOBER, 2023.

P.C. :

1. By this application, applicant is seeking bail in Crime No.43 of 2022 registered with D.B.Marg Police Station for offences punishable under Sections 370(1) read with 34 of Indian Penal Code, 1860, Rules 3 and 6 of Passport Act, 1950 and Rule 14 of Foreign Nationals Act 1946.

2. It is prosecution's case that on 1st March 2022 police received a secret information about a lady from Bangladesh residing at Guttergulli Grant Road without any legal documents. Accordingly Police conducted a trap and applicant came to be arrested. It is alleged that applicant informed the police that she was brought by

co-accused Mamun Hussain Gazi from Bangladesh to Mumbai for giving work. Accordingly, co-accused – Mamun Hussain Gazi was arrested.

3. It is the contention of learned counsel for applicant that applicant has been falsely implicated in this case. Co-accused against whom the allegations are that he had brought the applicant has been released on bail by the Trial Court. Applicant is behind bar for more than 1½ year. The maximum punishment for the offence registered against the applicant is up to five years. Investigation is completed, charge-sheet has been filed. Hence, requested to allow the application.

4. It is the contention of learned APP that applicant is a Bangladeshi National. She has no documents to show that she is citizen of India. She had not appeared before the authority. A show cause notice was issued against her by Foreigners Registration Officer and Deputy Commissioner of Police, Special Branch (I), C.I.D., Mumbai, dated 16th March 2022 but she did not reply to the said notice. There is prima facie case against the applicant. Hence, requested to reject the application.

5. I have heard both learned counsel, perused the FIR and charge-sheet.

The co-accused against whom the allegations are that he had brought the applicant to India has been released on bail by the Trial Court. Applicant is behind bar for more than 1½ year. The allegation against the applicant is that she is a Bangladeshi National. If direction is given to the applicant to produce the documents as directed by Foreigners Registration Officer and Deputy Commissioner of Police, Special Branch (I), C.I.D., by way of show-cause notice which is annexed at page 36 of the application and if the applicant fails to produce the said documents, the concerned authority can take appropriate action against her. Keeping the applicant behind bar would be pre-trial conviction. Hence, opportunity is required to be given to the applicant to produce documents to show her Indian Nationality.

6. Considering the above facts, I pass following order :

ORDER

- (i) Applicant be enlarged on bail on executing P.R.Bond in the sum of Rs.30,000/- with one or two sureties in the like amount.

- (ii) After release from jail, applicant shall appear within three days before the Foreigners Registration Officer and Deputy Commissioner of Police, Special Branch (I), C.I.D., and produce documents as per show-cause notice dated 16th March 2022, which is annexed at page 36 of the application.
- (iii) If the Applicant fails to produce the documents as required by concerned authority, the concerned authority shall take appropriate steps.
- (iv) Applicant shall attend D.B. Marg Police Station once in a month i.e. on first Monday between 11.00 a.m. to 3.00 p.m. till framing of charge.
- (v) Applicant shall inform her latest place of residence and mobile number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Investigating Officer.

7. The application is allowed in the aforesaid terms and is accordingly disposed off.

8. It is made clear that the above observations are made only for the purpose of granting bail and the Trial Court shall decide the

case on its own merits in accordance with law and uninfluenced by the observations made in this order.

9. All concerned to act on the authenticated copy of this order.

(SHIVKUMAR DIGE, J.)