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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 102 OF 2024

Kalpana Prakash Tribhuvan

APPLICANT

VERSUS

The State of Maharashtra

RESPONDENT

.....
Mr. Angad Lala Kanade, Advocate for the applicant
Mrs. P. V. Diggikar, APP for respondent - State
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 22nd MARCH, 2024

ORDER :

1. Applicant apprehends arrest in Crime No. 533 of 2023 registered with Kadim Jalna Police Station, District - Jalna for offence punishable under section 4/25 of the Arms Act.
2. FIR is lodged by Police Sub Inspector Vitthal Shinde, Chandanzira Police Station, Jalna, stating that a secret information was received that Amar Dadarao Wankhede was possessing a sword, his address was traced and inquiry was made with him. He informed that he sold the said sword to Anmol Kasbe. Amar was arrested and he produced said sword and disclosed that he had purchased the said sword from Kshitij Kshirsagar. On inquiry Kshitij admitted sale of said sword. He also stated that he also possessed one pistol, four swords, two Khanjir

and one Katti. On examination of his mobile, photos and videos of said weapons were found. It was also found that mother of Kshitij (applicant) was performing pooja of said weapons. One sword and was recovered from him.

3. Heard learned advocate for applicant and learned APP for the State. Perused the papers of investigation.

4. Applicant is a practicing advocate. Applicant submits that her son Kshitij, accused No.3 was arrested and he was in police custody for six days, however, nothing is recovered from him. Even house search of applicant was made, where except one sword nothing could be found.

5. Learned APP vehemently opposed the application contending that in a photograph, recovered during investigation, applicant is seen performing pooja of weapons such as one pistol, four swords, two daggers, one Katti, two fighters and two think bangles (Kada). Said photo is of 24th October, 2023. There is also one video showing applicant performing pooja of the said weapons. She claims that applicant is absconding since the date of registration of offence. Custody of applicant is necessary for recovery of these weapons.

6. Perusal of investigation papers reveals that Amar

Wankheda - accused No.1, Anmol Kasbe - accused No.2 and Kshitij - accused No.3 all were arrested on 21st December, 2023 at 3.16 hrs and were remanded to police custody up to 26th December, 2023. Nothing could be recovered from any of the accused persons during police custody. Investigating Officer has conducted house search of applicant on 23rd December, 2023. At the time of house search, applicant was not present and one sword was recovered from her house, at the instance of accused Kshitij. Though Kshitij, son of applicant was arrested on 21st December, 2023, for the reasons best known, the Investigating Officer has wasted two days in taking house search. At the time of house search, only one sword is found and the whereabouts of alleged weapons seen in the video could not be ascertained from Kshitij, though he was in police custody for six days. It is not possible to accept the submission of prosecution that applicant knows whereabouts of weapons and the same can be recovered from her.

7. Applicant was granted interim protection and she has attended police station. Contention of learned APP, that applicant was given notice under section 91 of the Criminal Procedure Code and asked to produce weapons seen in the video, she has not produced them and hence she has not co-operated in the investigation, cannot be accepted in these facts.

8. Applicant is a practicing advocate. Considering the gender of applicant, custodial interrogation of applicant is not necessary. Hence, the application is allowed.

9. In the event of arrest of applicant in Crime No. in Crime No. 533 of 2023 registered with Kadim Jalna Police Station, District - Jalna, applicant - Kalpana Prakash Tribhuvan be released on executing Personal Bond and Surety Bond of Rs.15,000/- with one surety in the like amount. Till filing of the charge sheet, applicant shall attend the concerned police station as and when called by the Investigating Officer. Applicant shall not tamper prosecution evidence.

[NITIN B. SURYAWANSHI]
JUDGE