



Diksha Rane

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

BAIL APPLICATION NO.3125/2022

SHAMSUNISA @ SHAMA SHAIKH ..APPLICANT
VS.

THE STATE OF MAHARASHTRA
(DCB CID, UNIT - 5) ..RESPONDENT

Adv. Zoheb Shaikh a/w. Adv. Zuber Chakoli for the applicant.
Smt. Sangeeta D. Shinde, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : MARCH 4, 2024.

P.C. :

- 1.** Heard learned counsel for the applicant.
- 2.** This is an application for bail in respect of the offence punishable under Sections 302, 307, 120-B, 201 read with 34 of the Indian Penal Code (hereafter 'IPC' for short) read with Sections 3, 25, 27 of the Indian Arms Act, registered on 12/2/2022 vide C.R. No.67/2022 with Dharavi Police Station.
- 3.** There are as many as nine accused. The applicant is the accused no.1, who was arrested on 13/2/2022. It is case of the prosecution that the assailants fired at Aamir on 12/2/2022. The applicant was a drug peddler in the area of Dharavi. The deceased Aamir was opposed to her activities

of selling drugs. Therefore, there was a degree of animosity between the deceased and the applicant.

4. Learned APP for the State vehemently opposed the application for bail. My attention is invited to the statements on record to indicate that it is at the behest of the applicant that the murder of Aamir Khan was committed. Learned APP contended that the applicant gave a contract to the accused/assailants for eliminating Aamir. A sum of Rs.1 lakh was paid by the applicant to the assailants for procuring firearms from Aligarh. My attention is invited to the statements of the assailants and other co-accused who say that it is the applicant who paid a sum of Rs.1 lakh for procuring firearms and executing the killing.

5. There are some statements on record which indicate that the applicant had a grudge against the deceased. *Prima facie*, the materials against the applicant is in the nature of statements of co-accused. The applicant is not an assailant but it is the contention of the prosecution that she has given the contract for eliminating the deceased. The applicant's complicity is in the realm of suspicion having regard to the materials on record. The applicant is a woman.

The applicant was six months pregnant when she was arrested. The applicant was arrested on 13/2/2022 and now is in custody for more than two years with no possibility of the trial concluding any time soon. The applicant's fifteen months old child is with her in custody. The investigation is complete. The charge-sheet has been filed. The applicant does not appear to be a flight risk.

6. There are criminal antecedents reported against the applicant are in respect of drug related cases. These criminal antecedents, in my view, should not be a factor to deprive the applicant the facility of bail in the present facts and circumstances. Considering that the applicant is a woman and having regard to the nature of materials against her, I am inclined to enlarge the applicant on bail but by imposing stringent conditions. Hence, the following order :-

ORDER

(a) The application is allowed.

(b) The applicant - Shamsunisa @ Shama Shaikh in connection with C.R. No.67/2022 registered with Dharavi Police Station shall be released on bail on her furnishing P.R. Bond of Rs.25,000/- with one or more local sureties in the like amount.

(c) The applicant is permitted to furnish cash bail surety in the sum of Rs. 25,000/- for a period of 8 weeks in lieu of surety.

(d) The applicant shall attend the Investigating Officer of Dharavi police station once in a month every first Monday of the month between 11.00 a.m. and 1.00 p.m. till the trial concludes.

(e) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(f) On being released on bail, the applicant shall furnish her contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(g) Except for attending the trial and for the purpose of reporting to the Investigating Officer, the applicant shall not enter Mumbai/Mumbai Suburban District after being released on bail, till the trial concludes.

(h) The applicant shall attend the trial regularly.

(i) The applicant shall surrender her passport to the

investigating officer.

(j) If the applicant is found violating any of the conditions or involved in any other offences, it is open for the prosecution to apply for cancellation of bail.

7. The application is disposed of.

(M. S. KARNIK, J.)