

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.4304 OF 2024

Shabina @ Sanna @ Aanam Shafiq Shaikh ... Applicant

Vs.

State of Maharashtra ... Respondent

Mr. Tukaram Shendge (appointed through Legal Aid) for Applicant.

Mr. Balraj B. Kulkarni, APP for Respondent-State.

Mr. S. S. Ghag, PSI, Malwani Police Station.

CORAM : MANISH PITALE, J.

DATE : NOVEMBER 21, 2024

P.C. :

1. Heard Mr. Shendge, learned counsel for the applicant, who was appointed from the panel of the High Court Legal Services Committee, in pursuance of order 11.11.2024 to appear on behalf of the applicant. This Court also heard Mr. Kulkarni, learned APP appearing for the respondent-State.

2. The applicant, who is a woman, was arrested as far back as on 25.06.2016 in connection with FIR No.345 of 2016 dated 23.06.2016 registered with Malwani Police Station, Mumbai, for offence under Section 302 read with Section 34 of the Indian Penal Code, 1860 (IPC).

3. The allegation against the applicant and two co-accused persons is that, they, with common intention, caused the death of the victims, who were a woman and her two children. The FIR was registered at the behest of a police officer, who was informed that an incident of violence had taken place at the house of the victim. The investigation was completed and charge-sheet was filed. The trial has progressed and according to the learned APP, the trial is nearing completion as the doctor and the investigating officer are to be examined. The learned

counsel for the applicant submits that considering the long period of incarceration suffered by the applicant and the fact that she is a woman, this Court may consider the present application sympathetically, particularly because this is a case of circumstantial evidence and there are no eye-witnesses to the incident.

4. On the other hand, the learned APP submits that since the trial is nearing completion and there is enough material to show the involvement of the applicant, who had motive to commit the offence as she was in a dire need of money, coupled with the fact that, she along with the accused persons fled after the incident and were found in Gujarat, the present application may be dismissed.

5. This Court has considered the rival submissions. The application deserves to be allowed for the following reasons:-

- a. The applicant is a woman and she has already suffered incarceration for a period of almost eight years and five months;
- b. This is a case of circumstantial evidence and there are no eyewitnesses. The weapon used in the offence was recovered from the place of the incident;
- d. The co-accused persons include the husband of the applicant and his friend.
- e. Considering the violence inflicted on the victims, this Court is inclined to believe that the actual act may have been committed by the co-accused persons;
- f. Although it is stated that the trial is nearing completion, this Court is inclined to grant relief to the applicant considering the aforesaid circumstances;
- g. In any case, being a woman, the applicant, upon being

released, cannot be said to be a threat to the society as there is nothing to indicate that she is a hardened criminal;

- h. The applicant is ready to co-operate with the trial court for completion of the trial within a reasonable period of time.

6. For the aforesaid reasons, the application is allowed in the following terms:-

- (A) The applicant shall be released on bail in connection with in connection with FIR No.345 of 2016 dated 23.06.2016 registered with Malwani Police Station, Mumbai, on furnishing P.R. Bond of Rs.25,000/- with one or two sureties in the like amount to the satisfaction of the trial Court;
- (B) The applicant shall appear before the trial Court, except when exempted for reasons to be recorded in writing. She shall cooperate with the trial Court for expeditious disposal of the trial;
- (C) The applicant shall report to Malwani Police Station on the first Monday of every month, during the pendency of the trial;
- (D) The applicant shall not tamper with the evidence of the prosecution. She shall not influence the informant, witnesses or any other person concerned with the case;
- (E) Upon being released on bail, the applicant shall immediately, and in any case within a week, furnish the details of her active mobile number and residential address to the trial Court and update about the same, if there is any change.

7. Needless to say, violation of any of the aforesaid conditions would make the applicant liable to face proceedings for cancellation of bail. It is also clarified that the observations made in this order are limited to the question of grant of bail to the applicant in the present application and that the trial Court shall proceed further, without being influenced by the observations made in this order.

8. The bail application stands disposed of accordingly.

(MANISH PITALE, J.)

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