

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

ANTICIPATORY BAIL APPLICATION NO. 2408 OF 2024

1. Sajeda Nadem Shaikh
 2. Samina Mehboob Sayyed
- ...Applicants

Versus

The State of Maharashtra

...Respondent

- Mr. Debajyoti Talukdar (Through V.C.) i/b Mr. Nitesh Jaywant Mohite, for Applicant.
- Ms. Megha S. Bajoria, APP for Respondent.

CORAM : MANISH PITALE, J.

DATE : 10th SEPTEMBER, 2024.

P. C. :

1. Heard Mr. Talukdar, learned counsel for the applicants and Ms. Bajoria, learned APP for the respondent – State.

2. The applicants are ladies, who are apprehending arrest in connection with First Information Report No.0825 of 2024 dated 09.07.2024, registered at Police Station Kondhwa, District Pune, for offences under Sections 118(1), 115(2), 189(2), 191(2), 190 and 351(3) of the Bharatiya Nyaya Sanhita, 2023 (BNS).

3. According to the informant, he was assaulted by co-accused persons when he visited their house, as it was suspected that the informant was having an affair with the sister of co-accused No.1.

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4. The learned counsel for the applicants submits that the applicants have been wrongly roped in and that in any case no overt act is attributed to them. It is submitted that the actual assailants have been granted regular bail.

5. The learned APP submits that as per the FIR presence of the applicants can be said to be established. It is conceded that specific overt act or use of the weapon is not even alleged against the applicants.

6. This Court has perused the material on record. The application deserves to be allowed for the following reasons :

- (i) The applicants are women against whom the only material appears to be the statement of the informant that they were present at the date and time of the incident.
- (ii) Applicants have not been attributed with any specific overt act of assaulting the victim – informant.
- (iii) There is no allegation of use of any weapon or otherwise in any manner assaulting the informant.
- (iv) The actual assailant i.e. co-accused No.1 was arrested and he is released on regular bail.

7. Apart from this, it is to be noted that the Sessions Court rejected the application of the applicants on the ground that their custody is necessary for the purpose of test identification parade. The said reason is in the teeth of

proviso to Section 480 of the Bharatiya Nagrik Suraksha Sanhita, 2023 (BNSS), which specifically provides that bail shall not be refused to an accused person merely on the ground that his/her presence is required for being identified by the witnesses during investigation.

8. Hence, the applicants are made out the case in their favour.

The application is allowed in the following terms :

- (A) In the event the applicant is arrested in connection with FIR No. 0825 of 2024 dated 09.07.2024, registered at Police Station Kondhwa, District Pune, they shall be released on bail on furnishing PR Bond of ₹ 15,000/- each with one or two sureties in the like amount, to the satisfaction of the Trial Court.
- (B) The applicants shall cooperate with the investigation.
- (C) The applicants shall not influence the informant, witnesses or any person concerned with the case and they shall not tamper with the evidence.

9. Needless to say, violation of any of the aforesaid conditions would make the applicants liable to face proceedings for cancellation of anticipatory bail.

10. It is also clarified that the observations made in this order are

limited to the question of grant of anticipatory 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.

11. The application is disposed of.

(MANISH PITALE, J.)