

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1469 OF 2025

Hemlata Harsh Shah .. Applicant
Versus
The State of Maharashtra .. Respondent

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- Mr. Ishwar Nankani a/w. Mr. Lalit Jain and Ms. Rhea Sinkar, Advocates i/by Nankani & Associates for Applicant.
 - Mr. Hitendra Venegaonkar, PP for Respondent (through Video Conferencing).
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CORAM : MILIND N. JADHAV, J.

DATE : MARCH 29, 2025

P.C.:

1. Heard Mr. Nankani, learned Advocate for Applicant and Mr. Venegaonkar, learned APP for Respondent appearing through Video Conferencing.

2. The Sheriestedar in the present case has persuaded the Court at 06:40 p.m. due to the urgent request made by learned Advocate for Applicant seeking bail in view of the exigency stated in the praecipe dated 29.03.2025. Hearing is held in the chamber. Learned PP has appeared on Video Conferencing.

3. Applicant has moved the present Application in grave urgency. Perusal of the praecipe and Bail Application itself discloses the urgency. I need not delineate the entire facts as I am convinced on reading the Bail Application that a case is made out by Applicant for

grant of interim bail in the exigency stated therein.

4. Briefly stated, Applicant is a woman, 61 years old and *prima facie* it is seen that she is suffering from diabetes, high blood pressure, cholesterol and other ailments.

5. The First Informant – Complainant who has filed the complaint is an ex-partner of the partnership firm in which Applicant's husband was a partner. Intriguingly it is seen that complaint is filed under Sections 471, 468, 467 and 120B of the Indian Penal Code, 1860 against Applicant wherein the subject document is the Will of Applicant's husband.

6. *Prima facie*, the Will has been probated by this Court is what is stated in the Application. The probate copy dated 27.11.2020 is placed on record by the learned Advocate for Applicant. I have perused it.

7. In that view of the matter, *prima facie locus* of First Informant – Complainant to challenge the Will of Applicant's husband is the question to which the answer would be in the negative.

8. That apart, it is seen that the alarcity with which the learned lower Court has proceeded with the matter pursuant to issuance of Non-Bailable Warrant in the facts of the present case is *prima facie* shocking. It is seen that Non-Bailable Warrant was issued on

27.03.2025 and Applicant was arrested on 28.03.2025 at 06:00 p.m. Applicant was produced before the learned Magistrate at 10:24 p.m. and without the police authorities / Investigating Officer requesting for any remand of the Applicant, learned Magistrate in the order dated 28.03.2025 has recorded in unnumbered paragraph No.2 of the said order as under:-

‘Investigating Officer is seeking the custody for recovery of forged Will and further investigation.’

9. Application made by Investigating Officer when seen by me does not show that the Investigating Officer has sought custody of Applicant. All that it states is that Applicant has been arrested and produced before the learned Magistrate for further orders. Copy of Application filed by Investigating Officer dated 28.03.2025 is also placed on record by learned Advocate for Applicant. Despite the above, learned Magistrate has in his order dated 28.03.2025 recorded that the Investigating Officer has asked for police custody and therefore he has granted police custody of Applicant till today i.e. 29.03.2025.

10. Today, when the Applicant was produced before the Magistrate for remand, a remand order dated 29.03.2025 has been passed by extending further custody of the Applicant in MCR till 11.04.2025. Immediately Bail Application was moved by Applicant

through her Advocate which was taken cognizance of by the learned Magistrate and he has in his hand-written order thereon endorsed that the Investigating Officer and learned APP to file say and has made the Bail Application returnable on 01.04.2025.

11. Considering the above *prima facie* facts, once the Will has been probated by the Bombay High Court, on the same cause of action, the learned Magistrate has in his remand order gone into the issue of forgery and sought interrogation of Applicant.

12. In my opinion in the aforementioned delineated facts custody of Applicant is completely unwarranted. Needless to state that Applicant shall co-operate with the investigation and the Investigating Officer as and when called for in the interregnum. Considering that she is a woman and her ailments, the Investigating Officer shall call her at a reasonable hour. I have on Video Conferencing also heard the submissions of Mr. Venegaonkar, learned PP on the aforementioned facts in the present case.

13. In view of the above *prima facie* observations, Applicant is granted interim bail forthwith. She is directed to be released forthwith in C.C.No. 703/M/2025 filed in FIR No.569 of 2024. The order dated 29.03.2025 stands quashed and set aside.

14. All concerned parties are directed to act on a server / uploaded copy of this order including the police authorities and the jail

authorities where the Applicant has been kept / lodged and the Applicant is directed to be released forthwith without insisting on Certified Copy of this order.

15. It is clarified that this is an interim order. The authorities will not insist on any P.R.Bond before her release. Bail Application will be heard on the next adjourned date.

16. Stand over the Bail Application to **03rd April, 2025 at 02:30 p.m..**

H. H. SAWANT

[MILIND N. JADHAV, J.]

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HANUMANT
SAWANT

Digitally signed
by HARSHADA
HANUMANT
SAWANT
Date:
2025.03.29
19:47:43 +0530