

ABA 1843/2022

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ORDER

MHCC050061502022



**IN THE COURT OF SESSIONS, AT DINDOSHI
(BORIVALI DIVISION), GOREGAON, MUMBAI
ANTICIPATORY BAIL APPLICATION NO. 1843 OF 2022
(C. R. NO. 1616 OF 2022)
(CNR NO.MHCC05-006150-2022)**

Mrs. Radhika Rajesh Darekar

Age – 53 years, Occ : Service,
Residing at : B-1202, Reema Residency CHSL.,
C. T. S. No. 17, Plot No. 607, 608,
Shimpoli Road, Opp. Radhe Maa Bunglow,
Chikuwadi, Borivali (West),
Mumbai – 400 092

... Applicant/Accused

V/s.

The State of Maharashtra

(Through Dahisar Police Station, Mumbai)

....Respondent

Ld. Advocate Mr. Saroj Shinde for the Applicant/Accused.

Ld. APP Mr. Imran Shaikh for The State.

**CORAM: H.H.THE ADDITIONAL SESSIONS JUDGE
SHRI. SHRIKANT Y. BHOSALE
(C.R.NO.13)**

DATE : 8TH DECEMBER, 2022

O R D E R

In anticipation of arrest in C. R. No.1616/2022 registered with Dahisar Police Station for the offence punishable under section 307 r/w 34 of IPC, the applicant is seeking pre-arrest bail.

2. Prosecution vide say Exh. 2 resisted the application.

3. Heard Ld. Advocate Mr. Saroj Shinde for the applicant and Ld. APP Mr. Imran Shaikh for The State and investigation officer.

4. The case of the prosecution in short is that son of the present applicant and co-accused Amey Rajesh Darekar is friend of victim i.e. daughter of the informant. On 13.11.2022 the present applicant took the victim to informant's house in injured position and asked the servant of the informant to take the injured victim inside the house. Accordingly, servant took the victim in the house. The informant returned from morning walk and noticed that the victim is seriously injured. She was initially shifted to Balaji Hospital, Malad and thereafter to Kokilaben Hospital and at present the victim is taking treatment there as indoor patient. As per the informant, the victim had sustained bleeding injury on her head and on legs. The victim is still not in a position to make any statement, therefore, the mother of the victim approached the police and registered the first information.

5. During the investigation, the son of the present applicant Amey was arrested. In his interrogation and on inquiry with the other witnesses, the story is revealed that on 16.11.2022 co-accused and the victim were sitting on water tank of La Beleza society. The water tank was having 18 Feet height from the terrace of the building. The victim and the co-accused consumed liquor and thereafter, there was quarrel in between them. The co-accused pushed the victim from the water tank and she fell on the terrace and sustained various injuries including the head injuries. The co-accused then brought the victim to his house and thereafter, applicant took the victim to the house of the informant. According to the prosecution while dropping the victim, the applicant hold the servant of the informant that the victim tried to commit suicide.

6. The Ld. Advocate for the applicant vehemently submit that there is absolutely no allegation against the present applicant, so far as commission of offence punishable under section 307 of the IPC. The allegation is against the co-accused i.e. son of the applicant that he gave push to the victim. He further submit that the applicant in fact taken the victim to her parents house and said can not be said to be offence. He further submits that in light of the above fact there is absolutely no need of custodial interrogation. The applicant is having permanent residence and will co-operate the investigation machinery and hence, this is a fit case to grant anticipatory bail.

7. As against this, Ld. APP submits that the victim is still not in a position to make any statement and therefore, the investigation officer can not ascertain the fact from making inquiry with the victim. The investigation up till now shows that the son of the applicant was friend of victim and they both consumed liquor. The co-accused gave push to the victim and made her fall on the terrace from about 18 Feet. The victim is seriously injured. However, the act of the applicant to tell the servant that victim tried to commit suicide is clearly showing the involvement of the present applicant in suppressing the true facts. In such circumstances, the applicant must be held responsible for aiding the offence. He further submits that the investigation officer want to make custodial interrogation by confronting the present applicant with the statement of the co-accused and for that purpose physical custody of the applicant is necessary, unless said is done, the investigation can not be concluded in proper manner. He, therefore, submits to reject the application.

8. So far as nature of allegations are concerned, it is definitely of a serious nature. It is true that the investigation up till now is not

revealing the actual participation of the present applicant in commission of section 307 of The IPC, however, the act of the applicant to drop seriously injured victim to her house, instead of providing medical treatment to the victim, is highly objectionable act of the applicant. However, it is seen that as per the investigation son of the applicant gave push and made the victim fall on the terrace, due to which victim had sustained serious injuries. The co-accused initially brought the victim to his house where from the applicant took the victim to her parents house. There must be some conversation between the co-accused and the present applicant about the fact how and why the victim sustained injuries. The statement of the applicant that the victim tried to commit suicide is contrary to the real fact. Thus, *prima facie* it appears that applicant has tried to mislead that the victim has attempted to commit suicide. Making such misleading statement *prima facie* shows that the applicant tried to save her son i.e. co-accused and thereby, she had abetted the proceeding. It may be that she aided the co-accused from vanishing the evidence. The real fact would be clear only after conclusion of full investigation. The presence of the applicant with the investigation officer for the purpose of confrontation is absolutely necessary. Considering all these aspects and seriousness of the crime, at this juncture it can not be said that the applicant is innocent and is entitled for discretionary relief like granting of anticipatory bail. In other words, the Court is not convinced that this is fit case to grant anticipatory bail. Hence, the order.

ORDER

Anticipatory Bail Application No. 1843 of 2022 stands rejected and disposed of.

ABA 1843/2022

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ORDER

(Dictated and pronounced in presence of Ld. Advocate for Applicant & Ld. APP)

Date: 08.12.2022

(Shrikant Y. Bhosale)
The Addl. Sessions Judge
City Civil & Sessions Court,
Borivali Division, Dindoshi.

Dictated on : 08.12.2022
Transcribed on : 08.12.2022
Checked & corrected on : 09.12.2022
Signed on : 09.12.2022
Sent to Dept. on :

CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER”

Date : 09/12/2022

Time : 12.54 P.M.

UPLOAD DATE AND TIME

Ms. Tejal C. Rane

(Stenographer Grade-I)

NAME OF STENOGRAPHER

Name of the Judge (with Court room no.)

**HHJ S. Y. BHOSALE
(Court Room No.13)**

Date of Pronouncement of
JUDGMENT/ORDER

08.12.2022

JUDGMENT/ORDER signed by P.O. on

09.12.2022

JUDGMENT/ORDER uploaded on

09.12.2022