

MHAH13000
5182024



ORDER BELOW EXH-35 IN SPECIAL CASE NO.

41/2024

**(The State of Maharashtra Vs. Ajij @ Kalu Habib
Shaikh & ors.)**

By way of application Exh.34, the applicants/accused No.2 Sayra Habib Shaikh and No.3 Reshma Babalu Sayyed have prayed for regular bail in CR No.534/20224 (Spl. Case No.41/2024) registered with Newasa Police Station for the offence punishable under Sections 354, 354-A, 354-D, 323, 337, 427, 143, 148, 149 of the IPC and under Sections 3(1)(r)(s), 3(1)(w)(i), 3(2)(v-a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. By way of present application Exh.35, the applicants have prayed for interim protection.

2. Perused the application, say and relevant record. Heard Shri. N.V. Nangare, the Learned Counsel for the applicants/accused and Shri. C.D. Sapkal, the Learned Special Public Prosecutor for the state/prosecution.

3. Learned counsel for the applicant/accused has submitted that the applicants are ladies and facing a trial in above CR No.534/20224 (Spl. Case No.41/2024). The FIR in question was lodged on 01.06.2024 in respect of incidence of the same day taken place in between 2:00 p.m. to 2:30 p.m. The applicants/accused were served with notices under section 41(1) (a) of the Code of Criminal Procedure and they have co-operated with the investigation. Therefore, there was no need of custody of

the applicants/accused No.2 & 3. Even, now the charge-sheet has filed and the investigation has completed. Therefore, now there is no need of any custody of the accused during trial as well.

4. He further submitted that even otherwise, the applicants have been falsely implicated only with a view to harass them. No such incidence had ever taken place. There is no question of recovery or discovery at the instance of applicants/accused. Both are ladies and resident of village Newasa Kh., Tal. Newasa. The applicants/accused are ready to attend each and every date of hearing and abide by all the conditions of bail.

5. He further submitted that it will take sometime to hear and dispose off the main application (Exh.34) of bail on merits after hearing of the informant/victim. Therefore, it is very much necessary to protect the liberty of the applicants/accused by granting interim bail.

6. Learned Special Public Prosecution has strongly opposed the request for interim bail. He has submitted that the offence is serious one. Prima facie there is involvement of the applicants/accused. If enlarged on bail, the possibilities of tampering with the evidence and pressurizing the witnesses as well as commission of similar type of offence cannot be ruled out. Hence, the present application for interim bail may be rejected.

7. The allegations against the applicants are of assault, abuse on caste and threats to the informant and witnesses.

Admittedly, it is necessary to hear the informant/victim before deciding the main bail application Exh.34. Therefore, it will take sometime for service of notice and hearing the main bail application. However, the situation is that the applicants/accused were not taken into custody during investigation period and merely notices under section 41(1)(a) of the Cr.P.C. were issued to them.

8. It is a matter of record that the applicants/accused were never in custody during investigation and now charge-sheet has filed. Therefore, when the investigating officer did not feel the custody of the applicants necessary for investigation purpose, it would be proper to protect their liberty at least till final decision of the bail application Exh.34 on appropriate conditions. Hence, I pass the following order :

ORDER

- 1) Application Exh.35 in Spl. Case No.41/2024 is hereby allowed.
- 2) **By way of interim order and till final disposal of bail application Exh.34**, applicants/accused No.2 Sayra Habib Shaikh and No.3 Reshma Babalu Sayyed be released on bail in CR No.534/20224 (Spl. Case No.41/2024) registered with Newasa Police Station for the offence punishable under Sections 354, 354-A, 354-D, 323, 337, 427, 143, 148, 149 of the IPC and under Sections 3(1)(r)(s), 3(1)(w)(i), 3(2)(v-a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, on executing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand Only) each, on following conditions :-

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- i) They shall not tamper the prosecution evidence.
- ii) They shall not commit any other or further offence.
- iii) They shall remain present on each and every date before the court for facing trial of this matter.
- iv) They shall give documentary proof of their identification and permanent residence at the time of furnishing surety.
- v) They shall not leave India without previous permission of the Court.
- vi) Issue notice to state and informant, as to why this order shall not be confirmed.

(Dictated and Pronounced in open court)

Date :- 08.08.2024

(Vinod Y. Jadhav)
Special Judge and Addl. Sessions Judge,
Newasa
JO Code : MH002455