

**IN THE BOMBAY CITY CIVIL & SESSIONS COURT AT DINDOSHI
GOREGAON, (BORIVALI DIVISION) MUMBAI**

ORDER BELOW EXH.5
IN
SESSION CASE NO. 145 OF 2018
(CNR NO.MHCC05-002041-2018)

Najo Akklakh Ansari

Age : 30 years, Residing at
Room No.77, G-2, B.M.C.
Colony, Santosh Nagar,
Goregaon (E), Mumbai.

...Applicant/Accused no.2

Vs.

The State of Maharashtra

Dindoshi Police Station
Through Ld. Public Prosecutor
Sessions Court Dindoshi Mumbai.

...Prosecution/Respondent

CORAM: H.H.AD-HOC, ASSISTANT SESSIONS JUDGE,
SHRI M.H.SHAIKH (C.R.NO.6)
DATE : 01st August 2018

Adv. Kruti Mehta for accused no.2.
APP Salve for State/respondent.

ORDER

1. This is an application u/s. 439 of Cr.P.C. by applicant/accused no.2 Najo Akklakh Ansari for bail.

2. **Brief facts of the application are as under :**

It is the case of the applicant/accused no.2 that she was shown to be arrested on 10/03/2018 by the Dindoshi Police Station for alleged offence punishable u/s. 397 r/w. 34 of Indian Penal Code and since then she is in judicial custody.

3. It is the case of the prosecution that the complainant is a autorickshaw driver and on 10/03/2018 he was moving towards Santosh Nagar to drop a passenger. At 2.30 a.m. he dropped the said passenger and was returning from there, when one unknown lady showed her hand to stop the autorickshaw and suddenly one unknown man came over there and showed the shaving knife which was in his hand and put it towards the neck of the complainant and threatened him and robbed his mobile phone and an amount of Rs.1,800/- and both these accused persons ran away from there. The complainant reported the incident to the police and thereafter an F.I.R. came to be registered and the applicant/accused no.2 and the other accused came to be arrested by the police.

4. Applicant/accused no.2 is an innocent young widow lady of 30 years of age and is having two children and an old mother to take care. She has been falsely implicated in the case. There are no independent witness. A conspiracy is hatched by the complainant and the co-accused so that the present applicant can languishes in judicial custody. The role attributed to the present applicant is that she had stopped the autorickshaw. The charge-sheet is been filed by the police. Applicant/accused no.2 is permanent resident of Goregaon, Mumbai and therefore prayed that the bail application be allowed and she is ready to abide all the conditions, if any, put forth by the Court.

5. On this application say of the prosecution came to be called. Prosecution filed its say vide Exh.6 and strongly objected for allowing the said application. It is the case of the prosecution that the applicant/accused showed the hand to the autorickshaw which was driven by the complainant on 10/03/2018 at 01.30 a.m. and thereafter accused no.1 suddenly appeared and showed a shaving knife to the complainant and took away the mobile phone and cash of Rs.1800/- and both of them ray away. The objection is that there

are two cases pending as against the applicant/accused no.2 u/s. 454, 457 and 380 of IPC. The prosecution apprehend that the applicant/accused no.2 will not appear at the time of trial and there is a possibility that the applicant may threatened the complainant and the witnesses and also tamper with the evidence. Therefore prayed to disallow the application.

6. Heard learned advocate for the applicant/accused no.2 and learned APP for the State. Gone through the entire charge-sheet and particularly the statement of the witnesses and so also the panchanamas and the memorandum.

7. Upon hearing and going through the material placed on record, this Court finds that this application requires to be turned down and the reasons for the same are as under :

8. Going with the prosecution story as stated in an application in hand as well as in the say what can be gathered is that applicant/accused no.2 showed the hand to the autorickshaw and thereafter accused no.1 came over there put a shaving knife on the neck of the complainant, robbed the mobile phone and Rs.1800 and thereafter both of them ran away. Even if there is no role of accused no.2 in threatening and robbing the complainant, but she was present on the spot and at her instance the autorickshaw was stopped and thereafter the alleged incident had taken place. Therefore the arguments of learned advocate for the applicant/accused no.2 cannot be accepted that there is no role of this applicant/accused no.2 in the said incident. As far as the argument that there is no independent witness to the incident, it is not the case of the prosecution that there were witnesses on the spot who had witnessed the incident. The offence was alleged to had taken place at 2.30 a.m. and therefore as per the prosecution also there is no independent witness. The

corroborative evidence i.e. the seizure panchanama, memorandum and thereafter the recovery shows that prima facie both the accused persons are accused in the commission of the said offence. Therefore this Court finds that it will not be just and proper to enlarge the accused on bail.

9. For the foregoing reasons and discussions, this Court holds that this application requires to be turned down. Hence the order.

ORDER

Bail Application **Exh.05** stands rejected and disposed off accordingly.

(M.H.Shaikh)
Ad-hoc Assistant Sessions Judge,
City Civil & Sessions Court,
Borivali Division, Dindoshi, Mumbai

Dictated on : 01/08/2018
Transcribed on : 01/08/2018
Signed on : 01/08/2018

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

Date : 02/08/2018

Time : 1.00 P.M.

UPLOAD DATE AND TIME

Mrs. Manisha S. Putta

(H.G.Stenographer)

NAME OF STENOGRAPHER

Name of the Judge (with Court room no.)

HHJ Shri M.H.Shaikh (C.R.No.6)

Date of Pronouncement of JUDGMENT/ORDER

01/08/2018

JUDGMENT/ORDER signed by P.O. on

01/08/2018

JUDGEMENT/ORDER uploaded on

02/08/2018