

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL APPLICATION NO. 1345 OF 2015
IN
CRIMINAL APPEAL NO. 552 OF 2014

Fatima Iqbal HussainApplicant

V/s.

The State of MaharashtraRespondent

Mr. Aniket Vagal Advocate for Applicant

Mrs. A. A. Mane APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : OCTOBER 29, 2015.

PC :

Heard learned counsel for the applicant. Applicant herein has filed criminal appeal no. 552 of 2014 challenging the Judgment and Order passed by Sessions Judge in Sessions Case No. 332 of 2013 wherein applicant herein has been convicted for offence punishable under section 109 r/w 376 of Indian Penal Code and is sentenced to suffer rigorous imprisonment for 7 years and fine in the sum of Rs. 1,000/- in default to suffer rigorous imprisonment for 2 months. Applicant was on bail during the pendency of trial. She was taken in custody on 20/06/2014.

2) Along with appeal, applicant herein had filed criminal appeal no. 875 of 2014 seeking suspension of substantive sentence during the pendency of

ism

appeal. This Court (Coram: Smt. Sadhana S. Jadhav, J.) had perused the substantive evidence of the victims, more particularly the evidence of 3, 4 & 5 and had observed that the entire examination-in-chief was proved as omission in the cross-examination. Upon considering the merits of the matter as well as the observations of the Hon'ble Apex Court in the case of **Kiran Kumar V/s State of Madhya Pradesh (2001 S.C. A.I.R. 5130)** had allowed the application seeking bail and had suspended the substantive sentence vide order dated 16/09/2014. This Court had directed the applicant to be enlarged on bail on furnishing P. R. bond in the sum of Rs. 15,000/- and one or two sureties in the like amount.

3) By this application, applicant is seeking provisional cash bail on the ground that although applicant was directed to be enlarged on bail, she could not be released forthwith since she could not furnish sureties. The whole exercise of granting bail would become futile in the eventuality that the accused cannot fulfill the conditions of bail. In view of this, application deserves to be allowed.

4) Learned APP submits that applicant shall undertake that she would not seek any further extension. The submission is taken on record.

ORDER

- (i) Application is allowed.
- (ii) Applicant be enlarged on provisional cash bail of Rs. 15,000/- for a period of 6 weeks from the date of her release, during which period applicant shall furnish sureties in the sum of Rs. 15,000/- from the date of her release.
- (iii) Application stands disposed of.
- (iv) Parties to act on authenticated copy of this order.

(SMT. SADHANA S. JADHAV, J.)