

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

**CRIMINAL APPLICATION NO.5181 OF 2015**  
**IN**  
**CRIMINAL APPEAL NO.736 OF 2015**

Mangadibai Mohan Bhil ..Applicant

Versus

The State of Maharashtra ..Respondent

--

Mr.J.R.Shah, advocate for applicant

Mr.N.T.Bhagat, APP for respondent - State

--

**CORAM : M.T. JOSHI, J.**

**DATE : MARCH 01, 2016**

**PER COURT :**

Heard.

2] By this application, the applicant/appellant, who has been convicted by learned Sessions Judge, Nandurbar in Sessions Case No.29 of 2011 for the offence punishable under Section 304 part I of Indian Penal Code, directing her to suffer rigorous imprisonment for ten years and to pay fine of Rs.1,000/-, is praying for her release on

bail by suspending the substantive sentence during pendency of the appeal.

3] The prosecution case, in short, is that in the night between 24th April, 2011 and 25th April, 2011, present applicant has inflicted blow of sickle (*Koyta*) on the person of her own husband - Mohan and caused his death.

4] The prosecution could not examine the complainant as, after his examination-in-chief was over, he went missing. Even otherwise, he was not an eye witness to the incident. According to the complaint filed by him, upon hearing shouts when he and his mother PW 4 - Mangibai went on the spot, the deceased was already injured with sickle in the house and his wife - present applicant was present in the home. PW 4 - Mangibai deposed that when upon hearing shouts, she went to the spot, she found that present applicant had *Koyta*, the weapon, in her hand.

5] Mr.Shah, learned counsel for the applicant, submits that there is no eye witness to the incident. The learned Sessions Judge has drawn presumption on reverse side by observing that it was a case of custodial death as the husband was in the custody of his wife - present applicant. He further points towards the fact that according to the prosecution, the weapon of the offence was not on the spot, but present applicant had made recovery of the same.

6] Learned A.P.P. opposes the application. He submits that the sentence awarded by the learned Sessions Judge is of ten years.

7] Considering the material on record and presently, without going into the merit of the case, finding that hearing in the appeal may take its own time, as the present applicant/appellant

is a woman, in my view, she deserves to be released on bail during pendency of the appeal by suspending the substantive sentences.

8] Hence, the following order :-

A] The applicant/appellant be released on bail upon her executing P.R. bond in the sum of Rs.20,000/- (Rs.Twenty Thousand) and also upon furnishing surety in the like amount, during pendency of the appeal. Humdast allowed.

. The application accordingly disposed off.

**[M.T. JOSHI, J.]**

