

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO. 172 OF 2016
IN
CRIMINAL APPEAL NO. 1054 OF 2015**

Gita Jojeph Montero ..Applicant

v/s.

The State of Maharashtra . ..Respondents

Mr. Debjyoti Talukdar for the Applicant.
Smt. V.R.Bhonsale, APP for the Respondent/State.

**CORAM : SMT. V.K.TAHILRAMANI &
SMT. ANUJA PRABHUDESSAI, JJ.
DATED : MARCH 21, 2016.**

P.C. (PER ANUJA PRABHUDESSAI, J.).

1. The applicant, who is an accused no.2 in Sessions Case No.465 of 2014 has been convicted and sentenced for offence punishable under Section 302 r/w. 34 IPC and sentenced to undergo imprisonment for life and fine of Rs.10,000/- in default to suffer rigorous imprisonment for two years, and further to undergo rigorous imprisonment for one year and fine of Rs.1000/- in default to suffer

rigorous imprisonment for one month for offence under Section 504 IPC. Having challenged the said conviction and sentence, the applicant herein has sought suspension of sentence and enlargement on bail, pending the decision of the appeal.

2. Heard learned Counsel Mr.Talukdar for the applicant and learned APP Smt. Bhonsale for the State. We have perused the records and considered the submissions advanced by the learned Counsel for the respective parties.

3. The allegations against the applicant in brief are that on 20.2.2014 at about 11.30 p.m. she and the other co-accused with common intention committed murder of one Sandip Pillay by inflicting several injuries on vital parts of his body.

4. The case of the prosecution is based mainly on the evidence of the eye witness Umarani-PW2. The evidence on record reveals that the deceased had outraged modesty of the daughter of the present applicant. The testimony of PW2 Umarani indicates that on

20.2.2014 at about 11.30 p.m., the accused no.1 Rajan, on seeing the deceased Sandip, had asked the applicant whether he is the same person who had outraged the modesty of her daughter and that when the applicant had replied in the affirmative the applicant and the other co-accused had abused and threatened the deceased.

5. PW2 has deposed that the accused no.1 Rajan had stabbed Sandip by means of knife on his chest, arms and abdomen. The testimony of PW2 does not indicate that the applicant herein had inflicted any injury on Sandip by means of any weapon. The only allegation against the applicant herein is that she had pelted stones on said Sandip. It is to be noted that the post-mortem report indicates that said Sandip had sustained two stab wounds and one incise wound and that the cause of death was due to hemorrhagic shock on account of stab injuries. The post-mortem report does not prima facie indicate that deceased Sandip had sustained any injury on account of pelting of stones or that he had expired as a result of the such injuries.

6. In the light of the above facts, we are inclined to grant bail in the matter on certain conditions.

i) The applicant shall be released on bail in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two solvent sureties in the like amount.

ii) The applicant shall attend Wanorie Police Station, Pune on first Monday of every month during the pendency of the present appeal.

7. The application is allowed in the above terms.

(ANUJA PRABHUDESSAI, J.)

(SMT. V.K.TAHILRAMANI, J.)