

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**BENCH AT AURANGABAD****CRIMINAL APPLICATION NO. 3454 OF 2016
IN APEAL/56/2017 WITH APEAL/56/2017**

SAU SUNITA W/O SHARAD RAUT
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant/appellant: Mr. N.V. Gaware
APP for Respondent/State : Mr. S.Y. Mahajan

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CORAM : S.S. SHINDE & K.K. SONAWANE, JJ.

Dated: March 06, 2017

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PER COURT :-

This is an application filed by the original accused-applicant for suspension of sentence awarded by the learned trial Court in Sessions Case No. 349 of 2015 for the allegations of commission of murder of her own daughter, who was 5 years old infant. The learned Sessions Judge, after appreciating the entire evidence adduced on record, arrived at a conclusion that, the applicant-original accused is guilty of offence punishable under Section 302 of the Indian Penal Code, and therefore, she was sentenced to suffer imprisonment for life for offence punishable under Section 302 of the Indian

Penal Code and fine of Rs. 5,000/-, in default, to suffer simple imprisonment for six months. Being aggrieved by the impugned findings of the conviction and sentence ordered by the learned Sessions Judge, the applicant/accused preferred the present Appeal, *inter alia* filed application for suspension of sentence and release her on bail pending appeal.

2. We have heard the learned counsel appearing for the applicant/accused and the learned A.P.P. appearing for the respondent/State. We have also perused the findings expressed by the learned trial Court as well as the relevant documents produced on record.

3. It has been contended that, the death of the deceased, who was five years old infant, was accidental death, and not homicidal death on the part of the mother applicant – Sunita Raut. There are no eye witnesses, who received an opportunity to watch the homicidal act of the applicant. According to learned counsel appearing for the applicant, the accused-applicant is suffering from the ailment of epilepsy and

during the relevant period, there was attack and she lost her consciousness, due to which the mishap occurred with the minor infant, resulting into her death.

4. The learned A.P.P. appearing for the respondent/State much more gave emphasis on the evidence adduced by the witnesses and vehemently submitted that, the attending circumstances on record categorically establish the guilt of the accused and she is only responsible for death of her minor daughter Samvedna.

5. The evidence adduced on record on behalf of the prosecution will be considered minutely at the time of finality of the appeal on merits. But, at this juncture, there would not be any propriety to keep the applicant behind the Bar, who is lady and mother of two minor daughters. Moreover, in case, the applicant is suffering from some physical ailments, it would also facilitate to provide her medical treatment. On such humanitarian ground also, we do not find any impediment to nod in favour of applicant. Therefore, we are inclined to allow the application. In the result, we proceed to

pass the following order :-

ORDER

(i) The application stands allowed. The execution of sentence of life imprisonment and fine awarded to the applicant – accused for the offence punishable under Section 302 of the Indian Penal Code in Sessions Case No. 349 of 2015 is hereby suspended pending appeal.

(ii) Meanwhile, the applicant-accused be released on bail on furnishing P.R. bond in the sum of Rs.20,000/- (Rupees Twenty Thousand) with one solvent security of like amount subject to the satisfaction of the learned trial Court.

(iii) After compliance of the formalities of furnishing the sureties, the applicant be released forthwith, if not required in any other crime. It is stipulated that, the applicant shall not leave the jurisdiction of this Court, without prior permission and secure her presence whenever required by this Court in this Appeal.

(K.K. SONAWANE, J.)

(S.S. SHINDE, J.)