

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.562 OF 2017

IN

CRIMINAL APPEAL NO.337 OF 2017

Mrs.Poonam Surendra Gupta & Anr. ... **Applicants**

V/s.

The State of Maharashtra ... **Respondent**

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Mr.Rahul Kate i/b. R.D.Suryawanshi, Advocate for the Applicant.
Mr.Ameet Palkar, APP for the Respondent/State.

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CORAM : A.M.BADAR J.

DATED : 4th May 2017.

P.C. :

1 Considering the peculiar circumstances faced by applicant No.1, the learned Advocate appearing for the applicant states that he wants to separate the application of applicant No.2 and, therefore, he does not want to press the application so far as applicant No.2 is concerned, at this stage. In view of this request made by the learned Advocate for the applicants, application of applicant No.2 is disposed of as not pressed.

2 Applicant Poonam along with co-accused Abhishek were put for trial for offences punishable under Sections 328, 379, 406, 468, 471, 419, 120-B read with Section 34 of the Indian

Penal Code (“IPC” for the sake of brevity) and ultimately after due trial both of them were convicted of offences punishable under Sections 328, 379, 406 419, 120-B read with Section 34 of the IPC. The third accused came to be acquitted by the learned trial Court. Different sentences were imposed on the applicant as well as the co-accused on each count and substantive sentences of imprisonment were directed to run concurrently. The highest sentence imposed on the applicant is rigorous imprisonment for five years for the offence punishable under Section 328 read with Section 34 of the IPC. Apart from substantive sentence of imprisonment, accused persons are also directed to pay fine.

3 Heard the learned Advocate appearing for the applicant/original accused No.1. He argued that the applicant is a lady running pregnancy of about six and half months duration. That apart she is having a female child aged about three and half years. She was under pre-natal care prior to her conviction and sentence. It is further argued that during pendency of the trial, the applicant was on bail and she has not misused her liberty.

4 The learned Additional Public Prosecutor opposed the application by contending that in a systematic manner, the applicant and her husband have duped the first informant Surendra Gupta. According to the learned Additional Public Prosecutor, the applicant made a farce of marriage with the first

informant and under the pretext of going for Honeymoon, at the railway station the first informant was administered with a stupefying substance and he was robbed of his valuables by the applicant in league with the accused.

5 I have carefully considered the submissions so advanced and also perused the impugned Judgment and Order as well as depositions of witnesses. According to the prosecution case, accused persons have robbed the first informant of his valuables by administering stupefying substance to him and they have cheated him by farcical marriage with him.

6 It is seen that the present applicant is at advanced stage of pregnancy. She was under pre-natal care during pendency of the trial and upon her conviction she is taken in the custody. That apart she is having a female child of about three and half years to maintain. In the wake of the fact that the applicant is a pregnant lady requiring pre-natal care, as well as a female child to maintain, liberty is restored to her, as she has not reportedly misused the same during pendency of the trial, therefore, the order :

- (i) The application is allowed.
- (ii) The substantive sentence of imprisonment imposed on the applicant/accused is suspended and she is directed

to be released on bail on executing PR Bond of Rs.15,000/- and on furnishing surety in the like amount.

(iii) As a condition of this order, the applicant should not indulge in commission of any crime during pendency of the appeal filed by her.

(iv) The application is disposed of accordingly.

(A.M.BADAR J.)