

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO.671 OF 2017**

**IN**

**CRIMINAL APPEAL NO.569 OF 2017**

**KAVITA ANIL PAWAR**

**)...APPLICANT**

**V/s.**

**THE STATE OF MAHARASHTRA**

**)...RESPONDENT**

Mr.Aditya Jadhav i/b. Mr.Sachin Pawar, Advocate for the Applicant.

Mrs.M.R.Tidke, APP for the Respondent - State.

**CORAM : A. M. BADAR, J.**

**DATE : 20<sup>th</sup> SEPTEMBER 2017**

**P.C. :**

1           This is an application for suspension of sentence and release the applicant / accused on bail during pendency of the appeal filed by her. The applicant / accused is convicted of the offence punishable under Section 304 (Part II) of the Indian Penal Code (IPC) and is sentenced to suffer rigorous imprisonment for 6 years apart from directing to pay fine of Rs.1,000/- and in default, to undergo simple imprisonment for 1 month.

2            Heard the learned advocate appearing for the applicant / accused and the learned APP appearing for the respondent / State. The learned APP opposed the application pointing out that there were several injuries on the deceased as reflected from the impugned judgment and order of conviction. The learned APP argued that the deceased has suffered in all 35 injuries on various parts of his body and as such, the applicant / accused is not entitled for bail.

3            I have carefully considered the rival submissions and also perused the impugned judgment and order of conviction, so also notes of deposition placed on record.

4            The applicant / accused is wife of deceased Anil Pawar. He died homicidal death on 11<sup>th</sup> August 2015. Even according to the prosecution case, deceased Anil Pawar was in a habit of consuming alcohol and there used to be frequent quarrels between him and his wife i.e. the present applicant / accused Kavita Pawar.

On the day of incident also, as seen from evidence of prosecution, deceased Anil Pawar returned to his house in intoxicating condition and started quarreling with his wife i.e. present applicant / accused Kavita Pawar. During the course of that quarrel, it is seen that both parties assaulted each other and ultimately Anil Pawar suffered injuries and succumbed to those injuries on the way to the hospital. Evidence on record prima facie indicates that the act was committed without premeditation, in a sudden fight and in a heat of passion. The incident is a fall out of sudden quarrel between husband and wife during the course of which because of injuries inflicted by the wife, the husband died. Even Chemical Analyser's report reflects that the deceased had consumed liquor at the time of the incident.

5            Short sentence of 6 years has been imposed on the applicant / accused and there is no likelihood of her appeal being taken up for final hearing in near future. Therefore the order :

**ORDER**

- i) The application is allowed.

ii) Substantive sentence imposed upon the applicant / accused is suspended and the applicant / accused is directed to be released on bail on her executing P.R.Bond in the sum of Rs.15,000/- and on furnishing surety in like amount.

iii) The application stands disposed of accordingly.

**(A. M. BADAR, J.)**