

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

**CRIMINAL APPLICATION NO.268 OF 2017
IN
CRIMINAL REVISION APPLICATION NO.276 OF 2017**

Dr. Chhaya Choudhary ...Applicant

Versus

The State of Maharashtra & Anr. ...Respondents

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Mr. Shirish Gupte, Senior Advocate i/b. Mr. M.V. Thorat for the Applicant.

Mr. Sandip Marne for the Respondent No.2.

Mr. Shahajirao Shinde, APP for the Respondent No.1-State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED : 1st SEPTEMBER, 2017.

P.C.:-

At the outset the learned senior counsel for the Applicant seeks leave to amend the prayer clause so as to incorporate the prayer for suspension of execution of sentence instead of suspension of execution of conviction. Leave is granted.

2. Amendment to be carried out of forthwith.

3. Heard the learned senior counsel for the Applicant and the

learned APP for the Respondent No.1-State and perused the records.

4. By the impugned judgment dated 21st January, 2014 passed in Criminal Case No.1347 of 2012 by the learned Jt. CJ.J.D. & J.M.F.C., Vashi at Belapur, Navi Mumbai the Applicant herein has been held guilty of offence punishable under Sections 19(4), 5[1(b)] and Rule 17(1), 17(2), 9(8), 9(4), 10(1A), 11 and under Section 23 of the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 2003 and has been sentenced to suffer simple imprisonment of two years and to pay fine of Rs.7,000/- (Rupees Seven Thousand only) i/d. to suffer simple imprisonment for one month. The Criminal Appeal No.50 of 2014 filed by the Applicant before the Sessions Court, Thane, has been dismissed by judgment dated 18th April, 2017.

5. The learned senior counsel for the Applicant submits that the Applicant shall deposit the fine amount within a period of eight days, in the event fine amount is not already deposited. He further submits that the Applicant was on bail during pendency of the case.

6. There is nothing on record to indicate that the Applicant

has violated terms and conditions of bail. Moreover, the Applicant is sentenced to suffer short term imprisonment of one year. The Revision is of the year 2017. Considering the large pendency of the cases, the Revision is not likely to come up for final hearing in the next couple of years. Rejecting the prayer of the Applicant for suspension of substantive sentence pending Revision will result in the Applicant undergoing the imprisonment even before the Revision application is heard on merits. Considering this fact so also the nature of offence, in my considered view, this is a fit case for suspension of execution of substantive sentence pending Revision. Hence, the following order:-

- (i) The application is allowed;
- (ii) Execution of substantive sentence imposed on the Applicant vide judgment dated 21st January, 2014 in Criminal Case No.1347 of 2012, by the learned Jt. C.J.J.D. & J.M.F.C., Vashi at Belapur, Navi Mumbai and confirmed by the Appellate Court in Criminal Appeal No.50 of 2014 is suspended till the disposal of the Revision on merits subject to the Applicant furnishing bail bonds of Rs.20,000/- (Rupees Twenty Thousand only) with one surety to the like amount to the satisfaction of the learned Jt. C.J.J.D. & J.M.F.C., Vashi at Belapur, Navi Mumbai;

(iii) The Applicant shall furnish her contact number and permanent as well as local address, if any, and shall intimate change of address, if any, to the Investigating Officer, as well as to the concerned Court.

(ANUJA PRABHUDESSAI, J.)