

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
APPLICATION NO.51 OF 2018
IN
APPEAL NO. 122 OF 2018

Rizwana Kalim Shaikh	..	Applicant
Versus		
State of Maharashtra	..	Respondent

Mr. Aniket Vagal for applicant
Mrs. M.H.Mhatre, APP for State.

CORAM : B.R. GAVAI &
B.P.COLABAWALLA, JJ

DATE : 20th February 2018

P.C.:

1. This is an application for suspension of sentence and grant of bail during pendency of appeal. The applicant is convicted for offences under section 317 of I.P.C. and sentenced to suffer R.I. for five years. She has also been convicted under section 302 and sentenced to suffer life imprisonment.

2] It is the case of prosecution that the applicant after having delivered male child abandoned the same and left it in a lane nearby.

3] Insofar as the sentence for section 317 is concerned the applicant has already undergone the same. Insofar as conviction under section 302 IPC is concerned, the case rests on circumstantial

evidence. Though the samples were sent for DNA tests, it is recorded that the DNA report is inconclusive. Though the child was found on 4th January 2013 and though according to the P.W.-2, he had informed police that that two deliveries had taken place in the society, one of which was the present applicant, no explanation is forthcoming as to why the prosecution did not apprehend the applicant till 6th January 2013.

4] The applicant is a lady and, therefore, entitled to special protection under section 437 of Cr.P.C. We are, therefore, inclined to allow the application. The order of sentence is, therefore, suspended. Applicant is directed to be released on bail in the sum of Rs.15,000/- with one or more solvent sureties in the like amount. Applicant shall report to the Nalla Sopara police station on every first and third Monday of each month between 8.00 a.m. and 10.00 a.m.

(B.P.COLABAWALLA, J)

(B.R.GAVAI, J.)