

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

**CRIMINAL APPLICATION NO. 594 OF 2018
IN
CRIMINAL APPEAL NO. 428 OF 2018**

Sarita Rajendra Tupe @ Sarita Anil Sapate ... Applicant
V/s.
The State of Maharashtra ... Respondent

Mr. Aniket Nikam for the Applicant.
Mr. J.P. Yagnik, A.P.P. for Respondent- State.

**CORAM : INDRAJIT MAHANTY AND
V.K. JADHAV, JJ.**

DATE : 18th DECEMBER, 2018.

P.C. :

1 Pending hearing and final disposal of the Criminal Appeal No.428 of 2018 preferred against the judgment and order of conviction passed by the learned Additional Sessions Judge, Pune, dated 23.02.2018 in Sessions Case No.519 of 2014, the Applicant-Original Accused No.1 has preferred this Application for getting release on bail and also for suspension of substantive part of the sentence passed against her.

2 Learned Counsel for the Applicant submits that there is no convincing ocular evidence in order to establish guilt of the Applicant-

Accused. The evidence of so called eye witnesses do not inspire confidence. The so called eye witnesses have contradicted each other on material aspects. There is evidence only to the extent that the Applicant-Accused had given threats to deceased Hanumanta to marry her. However, except this, there is no other connecting evidence against the Applicant-Accused. It appears from the evidence of the eye witnesses that no specific role has been ascribed by the Applicant-Accused.

3 The learned A.P.P. has strongly resisted the application and submits that the evidence of eye witnesses is consistent, reliable and trustworthy on material aspects. Deceased Hanumanta had developed illicit sexual relations with the Applicant-Accused. Deceased Hanumanta was married have one son. Applicant-Accused was insisting him to marry with her and she was also giving threats to deceased Hanumanta on that count. The Applicant-Accused had a strong motive to commit murder and even her presence on the spot has been marked by the eye witnesses.

4 We have carefully gone through the evidence of PW4 Mahadeo. Though he had witnessed the actual incident and deposed accordingly, he has not ascribed any specific role to the Applicant-Accused. As per his evidence, the companion of the Applicant-Accused ran away from the spot

on their bikes, however, the Applicant-Accused remain there. If at all Applicant-Accused assaulted deceased Hanumanta with the help of those four persons, it was unlikely on our part to remain there after the incident over. PW6 has exaggerated the story by saying one lady and 3-4 men were beating one person by cement blocks. He has further deposed contrary to the evidence of PW4 that on seeing him the Applicant-Accused and other 3-4 men assaulting Hanumanta, ran away on their bikes. Even PW6 has not ascribed any specific role to the Applicant-Accused. Though there is consistent evidence about the motive, however, there is no further connecting evidence against the Applicant. In view of the same, we are inclined to grant bail to the Applicant. Hence, the following order :

ORDER

- (i) The application is hereby allowed.
- (ii) The applicants-Accused Sarita Rajendra Tupe @ Sarita Anil Sapate be released on bail on furnishing P.R. Bond in the sum of Rs. 20,000/- with one solvent surety in the like amount.
- (iii) Substantive part of the sentence passed against the Applicant-Accused is hereby suspended till the disposal of the Appeal.

4 The application is disposed of accordingly.

(V.K. JADHAV, J.)

(INDRAJIT MAHANTY, J.)