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

***CRIMINAL APPLICATION NO. 774 OF 2014  
IN  
CRIMINAL APPEAL NO. 1012 OF 2013***

Smt. Jaya Talakshi Chheda  
Aged about 50 years,  
Residing at 126, Room No. 3518,  
Pant Nagar, Vishal Housing Society,  
Ghatkopar (East), Mumbai,  
At present undergoing the sentence  
imposed upon her at Yerwada Central  
Prison at Pune.

... Applicant.

V/s.

The State of Maharashtra  
(At the instance of Assistant Commissioner  
of Police, D.C.B., C.I.D., Mumbai vide  
C.R. No. 116 of 2008  
(corresponding Poynad Police Station  
C.R. No. 25 of 2008).

... Respondent.

Mr. Shirish Gupte, Senior Advocate i/b. Ram Pawde for the  
Applicant.

Mr. Ranjan Salvi, APP for the Respondent.

***CORAM : S.S. SHINDE AND  
MRS. MRIDULA BHATKAR, JJ.***

***DATE : 30<sup>th</sup> AUGUST 2018***

**P.C. :**

The Applicant – accused is convicted by the judgment and order dated 31<sup>st</sup> July 2013 passed by the Additional Sessions Judge in Sessions Case No. 294 of 2009 for the offences punishable under Sections 120-B and 302 r/w. 34 of the Indian Penal Code for the murder of one Suresh Bhagat, who was travelling with other six persons from Alibag to Mumbai on 13<sup>th</sup> June 2008 and she is convicted for life imprisonment.

2. She is the ex-wife of Suresh Bhagat, who was running Matka business. The Applicant – accused wanted to take over the business and therefore the conspiracy was hatched alongwith the co-accused. As per the case of the prosecution, Accused No.3 accepted the contract and Accused No.1, who was a driver of a dumper/truck collided with the Scorpio vehicle in which deceased Suresh Bhagat was travelling. He, alongwith with all six persons were killed in the said collusion. The Applicant – Accused hence filed this application for bail and suspension of sentence.

3. Mr. Shirish Gupte, the learned Senior Advocate appearing for the Applicant – accused has submitted that there is no sufficient evidence against the Applicant – accused to hold her guilty for the offence punishable under Section 302 of the IPC. The conviction is based on inadequate evidence of an approver who is

PW-5 Kiran Pujari. The learned Senior Advocate argued that as per the case of the prosecution, the ex-wife of the deceased wanted to take over the business however police could not establish this motive. He submitted that all the panchas have become hostile so no recovery panchnama is proved. He further submitted that the police could not prove the alleged payment of Rs.25.00 lakhs to Rs.30.00 lakhs paid by the Applicant – accused to the contract killers. He further submitted that PW-7 has stated that as there is evidence of PW-7 that carry bag was handed over however there is no mention for the exact amount and the currency notes. The learned Senior Advocate took us to the statement of PW-5 Kiran Pujari. There is only one sentence is attributed to the Applicant – accused who has stated in vernacular language that “*Tumhi Nuste Bolta Hatat Bangadya Ghallun Ghari Basa*” and at that time other accused Suhas Roge said that he will eliminate Suresh Bhagat by vague accident when he will go back from Alibag Court. Mr. Shirish Gupte, the learned Senior Advocate has submitted that on the basis of this one line, the prosecution cannot establish the case of conspiracy of murder. The learned Senior Advocate submitted that besides this there is no evidence against the Applicant – accused. He further relied on the order passed by the Division Bench of this Court on 7<sup>th</sup> February 2018 in the case of ***Suhas Mahadev Roge v/s. The State of Maharashtra in Criminal Application No. 1330 of 2017 in Criminal Appeal No. 913 of 2013.*** He

submitted that the said accused was released on bail against whom in fact prosecution has produced more evidence. He further submitted that the Applicant – accused as on today is on interim bail which is granted by the Supreme Court.

4. The learned Senior Advocate further submitted that she is on interim bail pursuant to the order of temporary bail granted to her by the Supreme Court. The learned Senior Advocate further pointed out that the Applicant – accused is still requires to undergo a knee replacement treatment and has undergone Bypass Surgery. Under these circumstances he prays for the regular bail.

5. Mr. Ranjan Salvi, the learned APP while opposing this application has submitted that she was the ex-wife of the deceased who was ambitious to run the Matka business of her husband Suresh Bhagat. When he was returning from Bombay while attending case at Alibag Sessions Court in N.D.P.S. case, the Applicant – accused alongwith the other accused conspired to do away Suresh Bhagat by arranging a deadly vehicular collision. Accused No. 4 - Suhas Roge arranged for dumper which was owned by other Accused No.2 and contract was given to Accused No.3. Accused No.1 was a driver who collided the dumber on the vehicle. The learned APP further submitted that alongwith Suresh Bhagat other six innocent persons were killed. He further argued that PW-5 Kiran Pujari is an

approver, who has stated that Jaya Chheda was involved in the illegal activities of Matka business. He submitted that an approver has stated that Jaya Chheda has participated in the conspiracy to do away Suresh Bhagat. He further submitted that money of Rs.30.00 lakhs was given. As per the evidence of PW-7, the money was given to him by Jaya Chheda and the money was distributed and it was for the contract killing.

6. We have gone through the record and the evidence of the witnesses. The approver PW-5 Kiran Pujari appears to be main witness against the Applicant – accused. However, at this stage whatever utterance is attributed by him to the present Applicant – Accused may not be a weighty evidence against the Applicant – accused in this crime. From the submissions of the learned APP it appears that there is no direct evidence or even the circumstantial chain showing how money traveled from the Appellant – accused to the other accused. We have gone through the order of the Division Bench dated 7<sup>th</sup> February 2012 wherein the other Accused Suhas Roge is granted bail. The present Applicant – accused was arrested on 4<sup>th</sup> July 2008 and then till December 2017 she was in the prison. The Applicant – accused as on today is on interim bail which is granted by the Supreme Court in Special Leave to Appeal (Criminal) No. 9697 of 2017 on the health ground.

7. The Applicant – accused has produced her medical report dated 26<sup>th</sup> June 2018 alongwith the certificate of Dr. Alok Pandey, Orthopedic Surgeon who has certified that she is suffering from knee problem and there is a report dated 27<sup>th</sup> June 2018 of Dr. Anil Kumar, Cardiologist of the Bombay Hospital certifying that she underwent Coronary Artery Bypass Grafting (CABG) on 14<sup>th</sup> December 2017 in Bombay Hospital.

8. Considering all these circumstances, we are inclined to allow this Application with following order :-

(i) Applicant/accused to furnish PR bond of Rs.50,000/- and one or more sureties in the like amount.

(ii) The Applicant/accused shall not threaten any witnesses or shall not commit similar type of offence.

(iii) The Applicant shall not leave India without the permission of Court.

(iv) The Applicant shall provide her address proof and also of her two blood relatives.

(v) The Applicant shall also provide her mobile number and of her two blood relatives.

(vi) The Applicant shall report to Malabar Hill Police Station between 8.00 a.m. & 10.00 a.m. every week.

9. The Application is disposed off accordingly.

*(MRS. MRIDULA BHATKAR,J.)*

*(S.S. SHINDE, J.)*

Jyoti  
Prakash  
Pawar

Digitally  
signed by  
Jyoti Prakash  
Pawar  
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