

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

**CRIMINAL APPLICATION NO. 423 OF 2018
IN
CRIMINAL REVISION APPLICATION NO. 422 OF 2018**

Sangita Soma Kathe	... Applicant
Vs.	
The State of Maharashtra	... Respondent

...

Mr. Raj J. Khude for the applicant.
Mr. Y.M. Nakhwa, APP for the Respondent-State.

...
CORAM : PRAKASH D. NAIK, J.
DATE : 13th AUGUST, 2018.

P.C.

1. The applicant is convicted for an offence punishable under Section 304-A of Indian Penal Code. She is sentenced to undergo Rigorous Imprisonment for three months. The judgment and order was challenged by preferring an appeal before the Sessions Court which was dismissed vide Judgment and Order dated 30th July, 2018.

2. The prosecution case is that applicant (accused No.1) was Superintendent of hostel. The victim was the inmate of the said hostel. It is alleged that on account of shortage of water supply, the victim and other inmates were sent to the river for washing

cloth. They were also accompanied by the watchman of the hostel (accused No.2). While on the river, the victim died due to drowning. It is alleged that on account of negligence of accused No.1 and 2, the incident had occurred hence, they were prosecuted for offence punishable under Section 304-A of Indian Penal code.

3. Learned counsel for the applicant submits that it is prosecution case that due to shortage of water, the applicant sent the victim and other inmates at the river for washing clothes. Taking the prosecution case as it is, the applicant cannot be convicted for an offence under Section 304-A of Indian Penal Code. It is further submitted that the applicant was on bail during the pendency of trial and during the pendency of appeal. It is further submitted that the department had initiated action against the applicant and she has been suspended from the said job. It is further submitted that the applicant was taken into custody on 30th July, 2018.

4. Learned APP submitted that there was complete negligence on the part of accused. Even after the alleged incident, the information was not provided to the relatives of the deceased that victim had drowned in the river. The relatives were made to

believe that she is missing from the hostel premises.

5. Considering the nature of allegations against the applicant and also considering the fact that she was bail during the trial, she is in custody from 30th July, 2018 and also considering the fact that sentence is of three months of imprisonment, bail can be granted. Primary question which arose in this case is whether assuming that the applicant had directed the victim to go to the river for washing clothes where she was drowned, whether she can be convicted for an offence punishable under Section 304-A of Indian Penal Code. Hence, I pass the following order.

ORDER

(i) Pending hearing and final disposal of Criminal Revision Application No.422 of 2018, the sentence of imprisonment awarded by the Judicial Magistrate First Class, Igatpuri, in Summary Criminal Case No. 1046/2007 vide Judgment and Order dated 29th November, 2014, which was confirmed by the Sessions Court, Nashik vide judgment and order dated 30th July, 2018, passed in Criminal Appeal No.235 of 2014, is suspended and the applicant is directed to be released on bail on furnishing P.R. Bond in the sum of Rs.15,000/-, with one or more sureties in the like amount;

(ii) Application stands disposed off.

Sachidanand
Kuttan Nair

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by Sachidanand
Kuttan Nair
Date:
2018.08.13
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(PRAKASH D. NAIK, J.)