

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1404 OF 2018

IN

CRIMINAL APPEAL NO.1004 OF 2017

Ms. Julia Nyandeni

...Applicant

V/s.

Union of India & Anr.

...Respondents

Ms. Sartaj Shaikh, Advocate for the Applicant.

Mrs. A.A. Mane, Advocate for respondent No.1.

Mr. P.H. Gaikwad Patil, APP for respondent No.2/State.

CORAM : A.M.BADAR, J.

DATED : 7th DECEMBER 2018.

P.C. :

1. This is an application for bail by the applicant/accused, who is convicted of the offence punishable under Sections 8(c) read with Sections 21(c) as well as under Section 8(c) read with Sections 28 and 23(c) of the Narcotics Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as the NDPS Act). On both counts, the applicant/accused is sentenced to suffer rigorous imprisonment for 10 years apart from imposition of fine of Rs.1 Lac separately on each count.

2. Heard the learned counsel appearing for the applicant/accused. She submits that the applicant/accused is suffering from the HIV+ and she is not given proper treatment of this ailment at the prison, and therefore, she needs to be released on bail. It is further argued that the applicant/accused has already undergone nine years of sentence.

3. The learned counsel appearing for the respondent No.1 opposed the application by contending that the offence is grave and serious and therefore, bail cannot be granted. It is further argued that the applicant/accused is a foreign national and contraband in huge quantity came to be seized from her.

4. The learned APP appears for respondent No.2/State.

5. I have considered the submissions so advanced.

6. The applicant/appellant was found to be unconscious possession of Heroine weighing 6.995 kgs., which was kept concealed in the false bottom of the checked-in-baggage. After trial, the learned Special Judge under the NDPS Act found the charges to be proved.

7. The applicant/accused is suffering from HIV+. This Court has called report of medical treatment given to her from the

prison. I have carefully perused the said report. It is seen that the applicant/accused is being regularly examined by the experts of the Government Medical College and Hospital at Nagpur and she is being provided with all necessary treatment to her ailment regularly by the said hospital. The applicant/accused is a foreign national, who is found guilty of serious offence under the NDPS Act.

8. In this view of the matter, no case for grant of bail is made out. At the same time, considering the fact that the applicant/accused is undergoing jail sentence, the appeal deserves to be expedited. Therefore, the order.

- : ORDER : -

1. The application is rejected.
2. Hearing of the appeal is expedited.
3. It be listed in the board of final hearing immediately after preparation of the paper-book.

(A.M.BADAR J.)