

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1888 OF 2018
IN
CRIMINAL APPEAL NO.1403 OF 2018

Maya Santosh Gupta.

..Applicant.

V/s.

The State of Maharashtra.

..Respondent.

Mr. Edgar Braganza I/b. Ms. Akshita Prajapati, advocate for applicant.

Mr. S.S. Pednekar, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J.

DATE : DECEMBER 3, 2018.

P. C. :

1 Heard the learned Counsel for the applicant and the learned APP for State.

2 This is an application under section 389 of the Code of Criminal Procedure, 1908. The applicant herein is convicted by the Additional Sessions Judge-2, Vasai vide Judgment and Order dated 9th October, 2018 in Session Case No. 87 of 2017 for offence punishable under section 306 of the Indian Penal Code and is sentenced to undergo S.I. for a term of 4 years and fine of Rs. 1,000/- I.d. to suffer S.I. for 2 months. The applicant is also convicted for offence punishable under section 506 of the Indian Penal Code and sentenced to undergo S.I. for 2 years and fine of Rs. 500/- I.d. to suffer S.I. for one month.

3 The applicant happens to be the legally wedded wife of the deceased Santosh. They were married sometime in year 2011. They

Talwalkar

were blessed with a daughter. It appears that the applicant herein had developed illicit relations with Sanjay and they wanted to get married. The deceased had got depressed because of the said act. It is alleged that in November, 2015 there was meeting of both the family, wherein Santosh was assaulted by the members of the family of the applicant and finally on 20/4/2016 Santosh had committed suicide by hanging. The report was filed by the mother of the deceased. On the basis of which Crime No. 194 of 2016 is registered.

4 It is true that there is material to show that a discordant note had struck between the spouses and that the applicant wanted to sever her relation with her husband, but it cannot be said that she had abetted, instigated or facilitated commission of suicide of her husband. In any case, she is sentenced to imprisonment for 4 years, which is a short term sentence. The applicant was on bail during the trial and has not committed breach of any condition imposed upon her. In view of the Judgment of the Hon'ble Apex Court in the case, Kiran Kumar v/s. State of M.P. 2001 AIR SCW 5130, the applicant would be entitled to be enlarged on bail as this Court is hearing appeal of the year 2012 and 2014, where the accused are in jail. Hence, she would be entitled to the extension of the same relief during pendency of the appeal. It is made clear that suspension of sentence shall not be construed as suspension of conviction.

5 Hence, following order is passed :

ORDER

- (i) The application is allowed.
- (ii) The substantive sentence imposed upon the applicant vide

Talwalkar

Judgment and Order dated 9/10/2018 in Sessions Case No. 87 of 2017 by Additional Sessions Judge-2, Vasai is hereby suspended.

(iii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 30,000/- and one or more solvent sureties in the like amount.

(iv) The applicant shall report to Session Court, Vasai once in 6 months on the date assigned by the concerned Court. Upon failure to attend the concerned court on two consecutive dates, the Sessions Court, Vasai shall report the same to the High Court and the prosecution is at liberty to file application for cancellation of bail.

6 The application is disposed of accordingly.

[SMT. SADHANA S. JADHAV, J.]