

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 2650 OF 2021
(FOR BAIL)
IN
CRIMINAL REVISION APPLICATION NO.204 OF 2021**

Miss. Mubarak Rajjaba Sultanova

.....Applicant

V/s.

The State of Maharashtra

.....Respondent

* * * *

Mr. Ayaz Khan, *Advocate for the applicant.*

Smt. S.V. Sonawane, *APP for State.*

Investigating Officer, PSI Mr. Dinkar Kadam, from Bandra
Police Station present.

Coram : Sandeep K. Shinde, J.

Friday, 29th October, 2021.

P.C. :

1. Heard.

2. This revision application challenges the conviction and sentence passed in C.C. No.469/PW/2020 by the Metropolitan Magistrate, 12th Court, Bandra, Mumbai for the offences punishable under Section 14(a)(b) of the Foreigners Act, 1946. The conviction and sentence was confirmed in Appeal vide judgment and order dated 20th October, 2021. Pending Appeal, the applicant was released on bail. Applicant is a Foreigner within the meaning of Section 2(a) of the Foreigners Act, 1946. She was prosecuted for staying in India for a period exceeding for which the Visa

was issued to her. Thus, she was prosecuted for the offence punishable under Section 14 of the Foreigners Act. Though this offence is punishable with imprisonment for a term which may extend to five years, it does not provide a minimum sentence. The trial Court and the Appellate Court committed an error, by holding that the offence under Section 14 is punishable with imprisonment for not less than two years. It appears, both the Courts, inadvertently read Section 14-A of the Foreigners Act and thereby convicted the applicant (foreigner) for a period of two years. It is admitted fact that, pending proceedings, applicant was incarcerated for 55 days. It also appears that, applicant pleaded guilty, which could be seen from an application moved by the Advocate for the applicant. It is at page-30 of the petition. Mr. Khan, learned Counsel for the applicant, submits that, applicant was arrested, while she was taking the treatment in hospital and not from the restricted area and she intends to go back to her country. Pending trial, she was on bail. In consideration of the facts of the case, impugned sentence is suspended and the applicant is directed to be released on bail on the same terms and conditions, on which she was released, pending Appeal. Fresh bail bonds to be executed before the Sessions Court.

3. List the Revision for final disposal on 2nd December, 2021.

(Sandeep K. Shinde, J.)