

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.143 OF 2020
IN APEAL/205/2020 WITH APEAL/205/2020

SANGITA W/O. VILAS AVHAD
VERSUS
THE STATE OF MAHARASHTRA

...

Mr. N.S. Ghanekar, Advocate for the Applicant.

Mr. S.P. Deshmukh, APP, for the Respondent – State.

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CORAM : R.G. AVACHAT &
R.M. JOSHI, JJ

DATE : DECEMBER 21, 2022.

PER COURT :

1. Heard.

2. Learned Advocate for the Applicant submits that Applicant is woman had undergone sentence for 6 ½ years. He took this Court through the material evidence on record in order to argue that testimony of Surekha (PW 8) and Mahesh (PW 9) cannot be relied upon for the reason that almost entire evidence of these witnesses is full of omissions and contradictions. Thus, according to him Applicant has good case on merits.

3. Learned APP opposed the said submissions by relying upon evidence led by the prosecution which

according to him shows that it was present Applicant who had administered stupefying substance to the deceased and thereafter he was taken to the plot belonging to the Applicant wherein he was buried after his murder.

4. At this stage, considering the material evidence on record, we find that evidence of Surekha (PW 8) is full of omissions and in cross-examination she admits to have been not residing with deceased and present Applicant. It has brought on record that she married to someone else at the time of recording her evidence which indicates that probably she had reason to falsely deposed against Applicant and her own husband. Similarly, evidence of Mahesh (PW 9) is not convincing for the reason that his testimony before the trial Court is inconsistent with the statement recorded during investigation.

5. In the aforesaid circumstances, and also in view of the fact that Applicant being lady who had already undergone 6 ½ years imprisonment, we are inclined to suspend her substantive sentence. Hence, the order:

ORDER

(a) Criminal Application is allowed in terms of prayer clause 'B'.

(b) Pending the appeal, the substantive sentence of imprisonment imposed by the trial Court is suspended. The applicant be released on bail on her executing P.R. bond in the sum of Rs. 15,000/- (Rupees Fifteen Thousand) with one surety in the like amount.

(c) Bail before the trial Court.

(R.M. JOSHI, J.)

(R.G. AVACHAT, J.)

Malani