

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

936 CRIMINAL APPLICATION NO.2563 OF 2022
IN APEAL/640/2022

SHARDA ALIAS SHAMAL W/O. SHRIRAM SHINDE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Mahesh Kale, h/f Mr. Rajeev T. Deshmukh.
APP for Respondent/State: Mr. R. D. Sanap.

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CORAM : **SHRIKANT D. KULKARNI, J.**

DATE : 08th September, 2022.

PER COURT:

. It is an application for suspension of sentence and bail moved by the lady appellant.

2 Heard Mr. Mahesh Kale, holding for Mr. R. T. Deshmukh, learned counsel for the appellant and Mr. R. D. Sanap, learned APP for the respondent/ State.

3 The learned counsel for the appellant/ applicant submitted that the appellant a lady though put on trial for the offence punishable under Section 302 of the Indian Penal Code coupled with other offences, she came to be convicted for the offence punishable under Sections 304, 450 and 364 of the Indian Penal Code and sentenced to undergo various terms of rigorous imprisonment and the maximum

sentence awarded against her is for ten years rigorous imprisonment and fine of Rs.500/- on each count. The learned counsel for appellant/ applicant submitted that the appellant/ applicant is a poor lady behind the bars since last more than three years. Out of ten years sentence, she has undergone three years sentence in the jail. There is nobody to look after the appellant/ applicant. As such, she could not deposit the fine amount. He submitted that there are no chances to take up this appeal for final hearing in near future. She is not a harden criminal. She may be released on bail by suspending the sentence by relying upon the citation in case of ***Bhagwan Rama Shinde Gosai and others Vs. State of Gujarat***, reported in, ***(1999) 4 Supreme Court Cases 421***.

4 Mr. R. D. Sanap, learned APP for the respondent/ State opposed to grant bail to the appellant/ accused by suspending the sentence. He submitted that the appellant/ applicant has committed heinous offence. She has been convicted for ten yeas rigorous imprisonment for the offence punishable under Sections 304, 450 and 364 of the Indian Penal Code. He, therefore, urged to reject the application.

5 I have considered the submissions of both the sides. The appellant a lady is behind the bars since the date of her arrest. She

came to be convicted by the learned Sessions Judge, Beed for the offence punishable under Sections 304, 450 and 364 of the Indian Penal Code and the maximum sentence awarded against her is ten years rigorous imprisonment and the sentences are directed to run concurrently. There are no chances to take up this appeal for final hearing in near future. The appellant is not a hardened criminal. There are no extraordinary circumstances to keep the appellant/ applicant behind the bars till decision of the appeal.

6 In case of *Bhagwan Rama Shinde Gosai and others* (supra), it is held by the Honourable Supreme Court that when a convicted person is sentenced to a fixed period of sentence and when he files an appeal under any statutory right, suspension of sentence can be considered by the appellate Court liberally unless there are exceptional circumstances. Having regard to the guidelines laid down by the Apex Court in the above cited case and looking to the facts of the case in hand, I do not find any extraordinary circumstances to keep the appellant/ applicant behind the bars till decision of the appeal. Moreover, the appellant/ applicant has already undergone three years sentence in the prison. It would be just and proper to release the appellant/ applicant on bail by suspending the sentence. Ofcourse, she has to deposit the fine amount with the Trial Court soon after releasing on bail within two weeks.

7 With this, I proceed to pass the following order:

ORDER

- I. The application is hereby allowed.
- II. The execution of substantive sentence passed against the appellant/applicant in Sessions Case No.253 of 2019 by the learned Sessions Judge, Beed dated 26th May, 2022, is hereby suspended till final decision of the appeal.
- III. The appellant/applicant shall be released on bail on her furnishing P.R. bond of Rs.15,000/- (Rupees Fifteen Thousand Only) with one or two solvent sureties of the like amount on following conditions:
 - a) The appellant/applicant shall deposit the fine amount with the Trial Court within a period of two weeks from the date of her release from the jail / prison.
 - b) The appellant/applicant shall furnish her in detail address (current as well as permanent address) as well as two addresses of her close relatives with the Trial Court.

- IV. Bail before the Trial Court.
- V. If the appellant/applicant fails to deposit the fine amount, the learned Sessions Judge may take appropriate action against the appellant/applicant for recovery of fine amount according to law.
- VI. The criminal application is accordingly disposed of.

[SHRIKANT D. KULKARNI, J.]

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