

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

**28 CRIMINAL APPLICATION NO.3328 OF 2021
IN APEAL/11/2020 WITH APEAL/11/2020**

SHESHABAI W/O. KISANRAO SHINDE
VERSUS
THE STATE OF MAHARASHTRA

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Mr. N.S. Ghanekar, Advocate for the applicant.
Mr. S.D. Ghayal, A.P.P. for respondent No.1.

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CORAM : **V.K. JADHAV AND
SANDIPKUMAR C. MORE, JJ.**

DATE : 03-01-2022.

ORDER :

1. Heard learned Counsel for the applicant and learned A.P.P. for respondent – State.

2. By order dated 7th September 2020 in Criminal Application No. 45 of 2020, this Court (Coram : Ravindra V. Ghuge and B.U. Debadwar, JJ.) disposed of the application as withdrawn, with liberty to the present applicant to circulate the appeal for final hearing after appeal paper book is received and further directed that in the event, the appeal is not decided by 15.06.2021, the appellant would be at liberty to renew her request of bail till decision of criminal appeal.

3. Learned Counsel for the applicant submits that the applicant, by exercising the said liberty, has filed the present

application mainly on the health grounds. Learned Counsel submits that the applicant alongwith her son came to be convicted for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code and sentenced to suffer imprisonment for life. Learned Counsel submits that the applicant was on bail during the course of trial. After conviction she has undergone sentence of 2 years 5 months and 12 days so far. Learned Counsel submits that at present age of the applicant is 80 years. Learned Counsel submits that the applicant is suffering from various health issues due to aging process and she is unable to carry out her daily routine work without any support. She needs nursing care. By order dated 23rd December 2021 this Court had directed the A.P.P. to take specific instructions from the Superintendent of the District Prison, Aurangabad as to whether the applicant is in a position to perform her daily routine on her own or she needs support / aid of any other person to perform her daily routine.

4. Learned A.P.P. submits that in comply with the directions given in the order dated 23rd December 2021, the Superintendent of Central Prison, Aurangabad has submitted report and also forwarded a report submitted by Chief Medical Officer of Aurangabad Central Prison. The said report is taken on record and marked 'X' for identification. Learned A.P.P. submits that appropriate order may be passed.

5. In terms of the order dated 7th September 2021, this appeal could not be disposed of on or before 15.06.2021. Even today also from Serial No. 61 to Serial No. 68 the criminal appeals preferred against the judgment and order of conviction wherein the convicted persons are in jail of the year 2014, have been listed. In view of the same, even it is difficult for us to take up the appeal of the applicant for hearing by breaking the number.

6. The applicant is at present 80 years of age. The Chief Medical Officer, Aurangabad Central Prison has submitted a report which reads as under :

“ Above named Convict Prisoner No. 9105 Sheshabai Kisanrao Shinde is under treatment. She is known case of Hypertension. Due to her old age and physically weak condition, she is unable to walk and unable to do her daily routine works, hence she needs nursing care.

Her general health condition is not satisfactory at present due to her old age. She is not in the position to perform her daily routine on her own and she needs support of any other person to perform her daily routine”.

7. In terms of the said report, it appears that the general health condition of the applicant is not satisfactory due to her old age. Furthermore, as certified, she is not in the position to perform her daily routine on her own and she needs support of any other person to perform her daily routine. She is also suffering from Hypertension. She is unable to walk. Thus, considering the entire aspect of the case, we are inclined to release the applicant on bail.

However, we make it clear that the co-accused would not get any parity because the applicant herein is released on bail only on health issue. Hence, the following order.

ORDER

- (i) Criminal Application No. 3328 of 2021 is hereby allowed.
- (ii) Pending Criminal Appeal No. 11 of 2020 preferred against the judgment and order of conviction passed by Additional Sessions Judge, Latur dated 06.11.2019 in Sessions Case No. 13/2017, the substantive part of the sentence passed against the applicant Sheshabai Kisanrao Shinde is hereby suspended to her extent only, till disposal of the appeal and till then the applicant Sheshabai Kisanrao Shinde be released on bail on furnishing P.R. bond of Rs. 15,000/- with one surety of the like amount.
- (iii) Criminal Application No. 3328 of 2021 is accordingly disposed of.

(SANDIPKUMAR C. MORE, J.)

(V.K. JADHAV, J.)

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