

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

***INTERIM APPLICATION NO. 2797 OF 2022
IN
CRIMINAL APPEAL (ST.) NO. 13752 OF 2022***

Ashabai Appa Rupnawar ... Applicant

Versus

The State of Maharashtra ... Respondents

...

Ms. Ankita Nishad, i/by Ms. Vrushali Maindad, for the Applicant

Mr. A.R. Kapadnis, A.P.P. for the Respondent-State

...

***CORAM : REVATI MOHITE DERE &
SHARMILA U. DESHMUKH, JJ.***

DATE : AUGUST 29, 2022

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the applicant seeks suspension of her sentence and enlargement on bail, pending the hearing and final disposal of her aforesaid appeal.
3. The applicant alongwith other co-accused were convicted and sentenced vide judgment and order dated 01.12.2018 passed by the Sessions Judge, Solapur in S.C. No.257 of 2018 as under:

- for the offence punishable under section 302 read with 149 of the Indian Penal Code to suffer imprisonment for life and to pay fine.
- for the offences punishable under sections 143, 144, 147, 148, 323, 324 and 506 read with 149 of the IPC and under section 5 read with 25 of the Arms Act, no separate sentence was awarded.

4. The learned counsel for the applicant, seeks bail on the ground of parity. She submits that the sentences of identically placed co-accused Fulabai, Latabai and Vandanabai, have been suspended and that they are enlarged on bail by this Court vide order dated 25.07.2022.

5. Learned APP does not dispute the fact, that the role of the applicant, is identical to that of co-accused - Fulabai, Latabai and Vandanabai.

6. Perused the papers with the assistance of the learned counsel for the applicant and the learned APP. It appears that there are two eye witnesses to the alleged incident dated 04.11.2016. PW-3

-Suvarna Ashok Rupnawar is the wife of deceased and complainant in the said case. She has disclosed the manner in which the incident has taken place. The said witness has stated that accused Appa Rupnawar and Rajendra Rupnawar were armed with swords, Sanjay Rupnawar and Sachin Rupnawar with sickle, Dada Rupnawar and Santosh Rupnawar with sticks and, Kuldip Rupnawar with a stone. She has stated that all the said accused assaulted her husband on his head, back, thigh and both hands. She has further stated that when she went to rescue her husband, at that time, Fulabai, Latabai, Vandanabai and the applicant came to the spot and dragged her from the spot and assaulted her with fist and kick blows.

7. It is not in dispute that the applicant was on bail pending trial and that she has not abused or misused the liberty granted to her. *Prima facie*, it appears that the applicant alongwith the other ladies came post the incident of assault on the deceased. Admittedly, the applicant was not armed with any weapon. It is not in dispute that the role of the applicant is similar to that of co-accused - Fulabai, Latabai and Vandanabai, whose sentences have been suspended and who were enlarged on bail.

8. Considering the aforesaid, the application is allowed and the applicant's sentence is suspended and she is enlarged on bail, pending the hearing and final disposal of her Appeal, on the following terms and conditions :-

ORDER

- i) The Applicant be enlarged on bail on furnishing P. R. Bond in the sum of Rs.10,000/- (Rupees Ten Thousand) with one or two sureties in the like amount;
- ii) The Applicant shall report to the trial Court, once in three months on the day/date specified by the trial Court, till her Appeal is finally disposed of;
- iii) The Applicant shall keep the trial Court informed of her current address and mobile contact number and/or change of residence or mobile details, if any, from time to time;

iv) If there are two consecutive defaults in appearing before the trial Court, the learned Judge shall make a report to the High Court and the prosecution would be at liberty to file an application seeking cancellation of her bail.

9. The Application is allowed in the aforesaid terms and is accordingly disposed of.

10. All concerned to act on the authenticated copy of this order.

SHARMILA U. DESHMUKH, J.

REVATI MOHITE DERE, J.