

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

**CRIMINAL INTERIM APPLICATION NO.422 OF 2022
IN
CRIMINAL APPEAL NO.107 OF 2022**

Sunita Ganpat Mhatre : Applicant/Appellant No.2

In the matter of

Mangesh Ganpat Mhatre and ors. : Appellants

versus

The State of Maharashtra : Respondents.

Mr. Uday B Nighot for the Applicant/Appellant No.2.

Mr. V B Konde-Deshmukh, APP for the Respondent/State.

**CORAM : S. S. SHINDE,
SARANG V. KOTWAL, JJ**

DATE : 15th March 2022

P.C.

1 This is an application for bail during pendency of hearing and final disposal of Criminal Appeal No.107 of 2022 which is preferred by Appellant No.2, who was original Accused No.2. In all there were six accused before the Sessions Court. The case was tried as Sessions Case No. 41 of 2017 before the Additional Sessions Judge, Panvel-Raigad. Out of six accused, three accused were convicted viz. Accused No.1 – Mangesh Ganpat Mhatre, Accused No.2 – Smt. Sunita Ganpat Mhatre (the present Applicant) and, Accused No.6 Ravindra Ganpat Mhatre.

2 The prosecution case, in brief, is that, on 28/12/2016 all the

accused entered the house of first informant – Smt. Meerabai Mhatre. Accused Nos. 1 and 6 assaulted Laxman Mhatre and Rupesh Mhatre with sharp weapons. The allegations made against the present Applicant are that, she assaulted the first informant with a stick. On conclusion of the trial, the other co-accused who had accompanied the convicted accused to the house of the first informant were acquitted by the Trial Court. It was held that they did not share any common object or intention in committing the murder of Laxman and Rupesh, however, the present Applicant was convicted by applying Section 34 of the Indian Penal Code.

3 We have heard Mr. U B Nighot, the learned counsel appearing for the Applicant and Mr. V B Konde-Deshmukh, the learned APP appearing for the Respondent/State.

4 Mr.U B Nighot the learned counsel appearing for the Applicant submitted that the present Applicant is not ascribed any role of assault either on Laxman Mhatre or Rupesh Mhatre, both of whom had died in the alleged incident, and only role attributed to the present Applicant is of assault on PW-1 Smt. Meerabai Mhatre with a stick. He further submitted that there is nothing on record which would indicate that, the present Applicant had shared any object or intention in committing the alleged offence of murder.

5 Mr. V B Konde-Deshmukh, the learned APP appearing for the Respondent/State submitted that the very fact that all the accused had entered the house of first informant with sharp weapons shows that they had shared common object or intention in committing the alleged offence of murder. In addition, the present Applicant is also ascribed the overt act of assault on PW-1 Smt. Meerabai Mhatre with a stick.

6 The learned counsel further submitted that, the Applicant was on bail during trial and she has not mis-used the liberty give to her. The learned APP for the Respondent/State does not dispute this statement.

7 We have considered the submissions made by the learned counsel for the Applicant and learned APP for the Respondent/State. The present Applicant is a widow having age of 60 years. She was on bail during trial and she has not mis-used the liberty given to her. In so far as the allegations made in the present case are concerned, no overt act is attributed to the present Applicant in committing the alleged assault either on Laxman Mhatre or Rupesh Mhatre. Only role attributed to her is that, she had assaulted PW-1 Smt. Meerabai Mhare with a stick. We have also perused the injury certificate of Smt. Meera Laxman Mhatre issued by PW-12 Dr.Swapnil Kishor Avasarmal. Smt. Meera Mhatre had suffered 8 injuries, and except one injury, all other injuries are simple in nature. It appears that according to the prosecution case,

the present Applicant had caused fracture to this witness (PW-1). However, whether the Applicant had shared any common object or intention with other accused in committing murder of Laxman and Rupesh is a matter that would be decided at the final hearing stage of Criminal Appeal No.107 of 2022.

8 At this stage, considering the role attributed to the present Applicant and the fact that, she is a woman and was on bail during trial, and that she has not mis-used the liberty given to her, we are inclined to grant her bail during pendency and final disposal of Criminal Appeal No.107 of 2022 which is likely to take a long time to reach at its final stage. Hence the following order :-

:ORDER:

- 1] Criminal Interim Application No.422 of 2022 is allowed.
- 2] During pendency and final disposal of Criminal Appeal No.107 of 2022, Applicant-Accused No.2 Sunita Ganpat Mhatre is directed to be released on bail on her furnishing PR bond of Rs.30,000/- (Rupees Thirty Thousand only) with one or two sureties in the like amount.
- 3] The Criminal Interim Application is disposed of accordingly.

[SARANG V. KOTWAL, J]

[S. S. SHINDE , J]