

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.497 OF 2019
IN
CRIMINAL APPEAL NO.643 OF 2019

Shakuntala Avadhesh Kewat : Applicant.

Versus

The State of Maharashtra : Respondent.

Mr. Sachin H Deokar for the Applicant/Appellant.

Ms. Veera Shinde, APP for the Respondent/State.

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

DATE : 07th April 2022

PC.

1 This is an application filed by the Applicant for enlarging her on bail during pendency and final disposal of Criminal Appeal No.643 of 2019. The Applicant/Appellant has been convicted by the impugned judgment and order dated 19/12/2018 passed by the Additional Sessions Judge, Pune for the offences punishable under Sections 302 and 309 of the Indian Penal Code and, sentenced her to suffer imprisonment for life.

2 Heard the learned counsel appearing for the Applicant and the learned APP appearing for the Respondent/State.

3 The learned counsel appearing for the Applicant submits that even if the prosecution case is taken as it is, prior to the incident in the night, there

was a quarrel between the Applicant and her husband, and after the said quarrel was over, she left the house on the next day along with two children and she jumped in the river from the bridge. He further submitted that it is evident from the evidence of PW-2 and PW-4 that, the Applicant was taken out of the river by fisherman and she is survived, however those two children died. It is submitted that possibility that the applicant and her sons could have accidentally fallen in the river cannot be ruled out and therefore it is an accidental death. The sum and substance of the arguments of the learned counsel for the Applicant is that the Applicant had no intention to kill those children.

4 On the other hand, the learned APP appearing for the Respondent/State invites attention of this Court to the notes of evidence so also to the findings recorded by the trial court, and submits that there is a concrete evidence which would show that the applicant had intention to kill those children and therefore this is not a fit case to suspend the sentence of the applicant and enlarge her on bail.

5 We have appreciated the rival submissions of the parties. With the able assistance of the learned counsel for the parties, we have carefully perused the evidence of the prosecution, and in particular evidence of PW Nos.1, 2 and 4. Upon perusal of the cross examination of Avadhesh Jagannath Kewat, who is the husband of the Applicant, it appears that prior to the

incident in the night, a quarrel between him and his wife i.e. the applicant had taken place, and thereafter on the next day his wife i.e. the applicant along with two children left the house and jumped in the river along with those two children. She could survive because of the fisherman who saved her, however, those two children died. Whether she had necessary intention or it is an accidental fall will have to be tested at the time of final hearing of the Appeal. In any case it is a very unfortunate case. Even as per the prosecution case, even the applicant tried to commit suicide, she is not a hardened criminal.

6 Considering the material and evidence on record, in our opinion, the applicant has made out a case for suspension of sentence and enlarging her on bail. Hence the following order :-

:ORDER:

- (i) Criminal Bail Application No.497 of 2019 is allowed.
- (ii) The sentence of the Applicant stands suspended till the hearing and final disposal of the Appeal.
- (iii) During the pendency and final disposal of Criminal Appeal No.643 of 2019, the Applicant – Shakuntala Avadhesh Kewat is directed to be released on bail on her furnishing P.R. Bond of Rs.15,000/- (Rupees Fifteen Thousand) with one or two sureties in the like amount.

(iv) The Criminal Bail Application No.497 of 2019 is disposed of accordingly.

[SARANG V. KOTWAL, J]

[S. S. SHINDE , J]