

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

***INTERIM APPLICATION NO.1804 OF 2022
IN
CRIMINAL APPEAL NO.268 OF 2020***

Najiya Mohammad Sajjad Applicant
Vs.
The State of Maharashtra Respondent

Mr. Pritesh K. Bohade for the Applicant.
Mrs. P. P. Shinde, APP for Respondent-State.

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

DATE : 18th AUGUST 2022.

P. C.

1. Heard.
2. By this application, the applicant seeks suspension of her sentence and enlargement on bail, pending the hearing and final disposal of the aforesaid appeal.
3. The applicant vide Judgment and Order dated 16th November 2019, passed by learned Additional Sessions Judge,

Malegaon, Nashik in Session Case No.77 of 2018, has been convicted and sentenced as under:-

- for the offence punishable under section 302 of Indian Penal Code, to suffer imprisonment for life and to pay fine of Rs.10,000/-, in default to suffer further simple imprisonment of 6 months.

3. Perused papers. The applicant is the wife of the deceased. According to the prosecution, the applicant and the deceased got married on 10/1/2018 and the incident in question took place on 15/2/2018 i.e. the incident of assault by the applicant on her husband. Admittedly, the prosecution case rests on circumstantial evidence. It is submitted that the only evidence qua the applicant, is of last seen. It also appears that the co-accused with whom the applicant was allegedly having an affair and who was also prosecuted in the same case has been acquitted by the trial Court. Apart from the evidence of last seen i.e. of PW-2- Mohd. Shamshad Mohd. Bashir, there is no other evidence in the form of recovery, CCTV footage to connect the applicant with the alleged offence. The applicant is in custody for last 4 years. The applicant's Appeal

has been admitted vide order dated 18/2/2020 and the same is not likely to be heard in the immediate future.

4. Considering what is observed hereinabove, 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.15,000/- 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 bail.

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

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

SHARMILA U. DESHMUKH, J. REVATI MOHITE DERE, J.