

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

**INTERIM APPLICATION NO. 2270 OF 2021
IN
CRIMINAL APPEAL NO. 808 OF 2021**

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Chandrakala Chandrakant Bhoir : Applicant/Appellant

Versus

The State of Maharashtra : Respondent

**Mr. Amit Mane, for Applicant/Appellant.
Mr. S. S. Hulke, APP for Respondent/State.**

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

DATE : 12th APRIL, 2022

P.C.

1. By this Application the applicant prays for suspension of sentence as also for enlarging her on bail during the pendency of the appeal.

2. The learned counsel appearing for the applicant invited our attention to the evidence of the prosecution witnesses and submits that the circumstantial evidence which has been relied upon by the prosecution and appreciated by the trial Court is not trustworthy. It is submitted that the statement of Laxmi Eknath Mukane (PW-3) has been recorded after two to three days. It is submitted that the PW-3 is the witness, who had heard the quarrel between the deceased and the appellant. However, her statement has been recorded belatedly and therefore, there is every possibility of concoction.

It is submitted that the other evidence which is brought on record by the prosecution including recovery is not reliable as the prosecution has failed to bring on record the report of the C.A. Even if, the prosecution case is taken as it is, at the most, the quarrel between the deceased and the appellant had taken place as a result of which the alleged offence had taken place. The appellant had no intention to commit the alleged offence. The appellant is in jail since her arrest and therefore, she deserves to be enlarged on bail during the pendency of appeal.

3. On the other hand, the learned APP invites our attention to the prosecution evidence and in particular deposition of PW-1 before whom the extra judicial confession had been made by the appellant herein. She admitted that she has committed the offence. The learned APP also invites our attention of this Court to the evidence of PW-3 and submits that the PW-3 stated in his deposition that he heard accused and her husband were quarreling with each other.

4. We have appreciated rival contentions of the learned counsel for the parties. With their able assistance we have perused the notes of evidence. The prosecution case mainly rests upon the evidence of PW-1 and PW-3. There is no denial to the facts that the statement of PW-3 was recorded after two to three days of the incident. It is true that PW-3 stated that he had heard quarrel between appellant and her husband. However, the prosecution has not

brought any material to corroborate the said version of PW-3. Even if, the prosecution case is taken as it is including evidence of PW-1 and PW-3 and other witnesses, in that case also there was no premeditation or design on the part of the appellant with the intention to kill Chandrakant (deceased). It appears from the deposition of PW-3 that Chandrakant (deceased) demanded Rs.50/- for purchasing liquor and the appellant denied the same. Then they started quarreling with each other and the alleged incident had taken place. It is informed by the learned counsel appearing for the applicant that since 2017 the appellant is in jail. The learned counsel appearing for the appellant brought to the notice of this Court that one daughter is dependent upon the appellant. It is also argued by the learned counsel appearing for the appellant that even the daughter was harassed by the deceased at the time of incident.

5. We are considering the application for bail during pendency of the appeal for final hearing. Therefore, a detailed analysis of the evidence is not necessary. We have examined this evidence only for the purpose of consideration of grant or refusal of bail to the Applicant. These issues will be finally decided at the final hearing stage.

6. Considering the evidence of PW-1 and PW-3 and other witnesses, the applicant has made out a case for grant of bail during pendency of the Appeal. Hence, the following order.

ORDER

- (i) Interim Application No. 2270 of 2021 is allowed.
- (ii) The sentence of the applicant stands suspended during the pendency and final disposal of the appeal.
- (iii) During pendency and final disposal of Criminal Appeal No. 808 of 2021, the Applicant - Chandrakala Chandrakant Bhoir is directed to be released on bail on her executing a PR bond in the sum of Rs.10,000/- (Rupees Ten Thousand Only) with one or two sureties in the like amount.
- (iv) Interim Application stands disposed of.

[SARANG V. KOTWAL, J]

[S. S. SHINDE, J]