

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

**INTERIM APPLICATION NO.2736 OF 2022
IN
CRIMINAL APPEAL NO.869 OF 2022**

Afsana Nasir Shaikh

.... Applicant

versus

State of Maharashtra

.... Respondent

.....

- Ms. Manisha S. Jagtap a/w Shubham Gade, Advocate for Applicant.
- Mr. S. R. Agarkar, APP for the State/Respondent.

**CORAM : SARANG V. KOTWAL, J.
DATE : 12th OCTOBER, 2022**

P.C. :

1. This is an application for bail pending hearing and final disposal of the Appeal preferred by the Applicant which is already admitted. The Applicant was convicted for committing the offence punishable u/s 307 of the Indian Penal Code and was sentenced to suffer rigorous imprisonment for 10 years and to pay a fine of Rs.1,000/- and in default of payment of fine to suffer simple imprisonment for three months.

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2. Heard Ms. Manisha S. Jagtap, learned counsel for the Applicant and Mr. S. R. Agarkar, learned APP for the State.
3. The incident had occurred in 21/11/2016. P.W.1 had left her 10 months old bay with the care and protection of the Applicant. The case is that when she took the baby back in the evening, it was observed that the baby had suffered injuries. In the night her health deteriorated. She was taken to a hospital. Then it was noticed that she had suffered physical abuse. The FIR was lodged on 24/11/2016. The Applicant was arrested. At the conclusion of the trial she was convicted as mentioned earlier.
4. Learned counsel for the Applicant submitted that she has completed more than 5 years in custody. The Appeal is not likely to be decided within that period. She submitted that there is no reason why the mother of the girl would wait for three days for lodging the FIR. The delay in filing the FIR is fatal

to the prosecution case. She submitted that the Appellant has not committed any offence.

5. Learned APP opposed the application. He relied on the opinion of the Doctor which mentioned that the injuries could have turned fatal resulting in brain edema.

6. I have considered these submissions as well as evidence annexed to this Appeal. It is mentioned in the paragraph No.26 of the judgment about description of CCTV footage. It was clearly seen in the CCTV footage that the Applicant was beating the child, lifting the child and throwing her on the floor. She poke fingers in the eyes of the child and threw something in the eyes. The acts are extremely cruel. There is sufficient evidence against the Applicant. Therefore no case for bail is made out. The application is rejected.

(SARANG V. KOTWAL, J.)