

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO.3155 OF 2021
IN
CRIMINAL APPEAL NO.1040 OF 2021

Swati Vikram Malvadkar	...	Applicant / Appellant
Vs.		
State of Maharashtra	...	Respondent

Mr. Aniket U. Nikam a/w. Mr. Aashish Satpute, Mr. Piyush Toshnival,
Mr. Vivek Arote a/w. Mr. Amit Icham for Applicant.

Mr. Y. M. Nakhwa, APP for Respondent-State.

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

DATE : APRIL 07, 2022

P.C. :

. Heard Mr. Aniket Nikam, learned counsel appearing for the applicant
and Mr. Y. M. Nakhwa, learned APP appearing for the respondent-State.

2. The applicant is convicted for the commission of offences punishable
under Sections 302, 328 and 309 of the Indian Penal Code.

3. Prosecution case, in brief, is that on 02.08.2016, the applicant
administered a poisonous substance to her son Nishigandh *alias* Monu on
account of household disputes between herself and her husband. Not only
that, the applicant also tried to commit suicide by consuming the poisonous
substance and by hanging herself. However, the applicant was saved and the
child died.

4. We have heard Mr. Nikam, learned counsel appearing for the applicant and Mr. Nakhwa, learned APP appearing for the respondent-State.

5. The learned counsel appearing for the applicant submits that the applicant was on bail during the pendency of trial. She had no intention to kill son *Nishigandh*. She was fed up with the ill-treatment given by her husband and decided to commit suicide. He, therefore, submits that the applicant may be released on bail during the pendency and final disposal of the appeal.

6. On the other hand, learned APP appearing for the respondent-State invites our attention to the evidence of prosecution witnesses and findings recorded by the trial Court and submits that the present application with a prayer to enlarge the applicant on bail may be rejected.

7. We have carefully perused the notes of evidence and also the medical evidence. It appears that the applicant was fed up with the treatment meted out to her by her husband and in-laws and tried to commit suicide. It is true that the insecticide was found during the post-mortem of son *Nishigandh*. But even the applicant had consumed poison. Even the prosecution case appears to be that the offence is committed out of extreme frustration. The applicant is a woman and is not a hardened criminal. Admittedly, the applicant was on bail during the trial. It is not brought to the notice of this Court that she has misused the bail.

8. In that view of the matter, we are of the view that the applicant deserves to be enlarged on bail during the pendency of the appeal. Hence, the following order:-

- (i) Sentence of the applicant stands suspended till the hearing and final disposal of Criminal Appeal No.1040 of 2021;
- (ii) During the pendency and final disposal of Criminal Appeal No.1040 of 2021, applicant - Swati Vikram Malvadkar is directed to be released on bail on executing a P. R. Bond in the sum of Rs.20,000/- (Rupees Twenty Thousand only) with one or two sureties in the like amount;
- (iii) Criminal Interim Application stands disposed of.

(SARANG V. KOTWAL, J.)

(S. S. SHINDE, J.)

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