



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 2165 OF 2023
IN
CRIMINAL APPEAL NO. 875 OF 2023

Jaylaxmi Vijaykumar Gurav	...Applicant
Versus	
The State of Maharashtra	...Respondents

Mr. Amit Mane for the Applicant.

Mr. K.V.Saste, A.P.P for the Respondent-State.

**CORAM : REVATI MOHITE DERE &
GAURI GODSE, JJ.**
DATE : 11th SEPTEMBER, 2023

P.C. :

1. Heard learned Counsel for the parties.
2. By this application, the applicant seeks suspension of her sentence and enlargement on bail, pending the hearing and final disposal of her aforesaid appeal.

3. The applicant, vide Judgment and Order dated 25th August, 2022 and 29th August, 2022, passed by the learned Sessions Judge, Sindhudurg at Oros, in Sessions Case No. 05 of 2018, has been convicted alongwith other co-accused as under:-

- for the offence punishable under Section 302 of the Indian Penal Code, to suffer life imprisonment and to pay a fine of Rs.3,000/- each, in default, to suffer simple imprisonment for 15 days;
- for the offence punishable under Section 201 r/w 34 of the Indian Penal Code, to suffer rigorous imprisonment for 2 years and to pay a fine of Rs.1000/- each, in default, to suffer simple imprisonment for 5 days;

All the sentences were directed to run concurrently.

4. The applicant was however, acquitted of the offence punishable under Section 120-B of the Indian Penal Code.

5. Perused the papers. The prosecution case rests entirely on

circumstantial evidence. According to the prosecution, the applicant was having an extra-marital affair with co-accused No.1, pursuant to which, both, the applicant and the co-accused murdered the deceased i.e. the applicant's husband – Vijaykumar. As far as the applicant is concerned, the prosecution has relied on the evidence of PW-8 – Bhimrao Kallappa Kambale to prove the circumstance of last seen as against the applicant. We having perused the evidence of PW-8 – Bhimrao, do not find that the said evidence, in any way, prove the circumstance of last seen, as against the applicant. As far as extra-judicial-confession is concerned, the same is alleged to have been made by co-accused No.1. As far as, finding of blood stains in the house is concerned, the Chemical Analyser's Report shows that the blood group is inconclusive. It is a matter of record, that although the incident is alleged to have taken place on 5th November, 2017, the dead body of the deceased was found on 11th November, 2017, after 4-5 days of the alleged incident.

6. Considering the evidence on record and considering that

the applicant, a lady, is in custody since 2017, the application is allowed and the applicant's sentence is suspended and she is enlarged on bail, pending the hearing and final disposal of the aforesaid 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.25,000/- with one or two sureties in the like amount;
- ii) The applicant shall report to the trial Court, once in four months on the day/date specified by the trial Court, till the 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.

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

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

GAURI GODSE, J.

REVATI MOHITE DERE, J.