

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

CRIMINAL REVISION APPLICATION NO. 350 OF 2023

Asmita Atmaram Salunkhe

..Applicant

Versus

State of Maharashtra

..Respondent

**WITH
INTERIM APPLICATION NO. 3885 OF 2023
IN
CRIMINAL REVISION APPLICATION NO. 350 OF 2023**

Mr. Amey R. Deshpande a/w. Ajit Mandlik a/w. Vandana Bait a/w.
Harsh Nishar for Applicant.

Mr. Ajay Patil, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 26 OCTOBER 2023

PC :

1. The applicant was the accused in R.C.C.No.27 of 2009 before the J.M.F.C., Khalapur. The learned Magistrate, vide his Judgment and order dated 18.04.2014 convicted her for commission of offence punishable U/s.420 of the I.P.C. She was sentenced to suffer R.I. for one year and to pay a fine of Rs.25,000/- and in default to suffer R.I. for six months. She was acquitted from the charge U/s.506 of the I.P.C.

2. Learned counsel for the applicant states that, she has already deposited the fine amount. The applicant challenged that order by way of Criminal Appeal No.123 of 2019 before the Sessions Court, Panvel. The learned Additional Sessions Judge, vide his Judgment and order dated 19.10.2023 dismissed her appeal. She was immediately taken into custody and as of today she is in custody.

3. The prosecution case is that, the applicant was activist of a political party. She was a member of Women's Vigilance Committee at Khalapur police station. She represented herself to various victims that she was in a position to get jobs for them. She accepted various amounts from those victims. They were not given jobs and, therefore, PW-1 Ulhas Bhoir lodged an F.I.R. on 19.11.2008 vide C.R.No.182 of 2008 at Khopoli police station. Initially, the complaint was given to the local crime detection branch, Alibag. That complaint was forwarded to the Khopoli police station and the offence was registered U/s.420 and 506 of the I.P.C. The investigation was carried out and the charge-sheet was filed.

4. During trial, the prosecution examined 12 witnesses. Out of them, PW-1 was the first informant and a victim. PW-2 to PW-11 were the other victims from whom various amounts between Rs.40000/- to Rs.80000/- were taken by the applicant. PW-12 was the investigating officer. The depositions of all these victims were similar. All of them have stated that they came to know that the applicant was giving jobs on accepting the money. They approached her. She accepted the money but did not give them job. They lost their money and, therefore, they were cheated.

5. Learned counsel for the applicant submitted that, she has taken the correct defence that, she was falsely implicated because she was working with the vigilance committee of the police station. She was instrumental in busting gambling operations, therefore, she was framed by those offenders. He further submitted that the victims deposed that they themselves had approached the applicant and she had not gone to them. They on their own had requested her to give job for which they had paid the money. He further submitted that the victims' own depositions show that, they had given money for illegal purpose of getting jobs

through illegal means. Therefore, the offence of cheating cannot be made out against the present applicant. He further submitted that, there was no recovery of any amount from the applicant. There was no proof that any such money was paid to her except an entry of Rs.60000/- which PW-1 had allegedly paid to her in her bank account. Learned counsel submitted that, since there is no recovery of money after detailed investigation; it shows her innocence. He submitted that the amount of Rs.60000/- was for some different transaction and not for giving job to PW-1. Learned counsel further submitted that the applicant has undergone six surgeries so far. She was a cancer patient and was suffering from uterus cancer. She has undergone one surgery for that also. Learned counsel submitted that the prosecution was pending since 2009 and the applicant has not misused the liberty of bail for all these years. Based on all these submissions, he prayed that the revision application be admitted and the applicant be released on bail.

6. Learned APP opposed these submissions.

7. Learned counsel for the applicant, based on his submissions has made out a case for admitting the revision application and releasing the applicant on bail.

8. Hence, the following order:

O R D E R

- i) The Criminal Revision Application No.350 of 2023 is admitted.
- ii) Call record and proceedings.
- iii) During pendency and final disposal of the revision application, the applicant is directed to be released on bail on her furnishing P. R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.
- iv) The Interim Application No.3885 of 2023 is disposed of.

(SARANG V. KOTWAL, J.)