



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO.903 OF 2024
IN
CRIMINAL APPEAL NO.190 OF 2024**

1. Nilofar Jafar Khan,
2. Nasimabee Jafar Khan,
3. Arbaz Jafar Khan(Application Withdrawn)

..Applicants

Vs.

The State of Maharashtra

..Respondent

Mr.S.E.Siddiqui, Advocate for applicants
Mrs.S.N.Deshmukh, APP for respondent

**CORAM : R.G.AVACHAT AND
NEERAJ P. DHOTE, JJ.
DATE : MARCH 19, 2024**

ORDER :-

This is an application for suspension of substantive sentence of imprisonment.

2. Learned counsel for the applicants/appellants, on instructions, does not press the application of applicant no.3 - Arbaz Jafar Khan.

3. In view of the statement made by learned counsel for the applicants, the application to the extent of applicant no.3 - Arbaz Jafar Khan, stands disposed of as not pressed.

4. Heard learned counsel for the applicants/appellants and learned APP for the respondent – State. Perused the papers on record.

5. It is not in dispute that this Court, vide order dated 16.02.2024 passed in Criminal Application No.419 of 2024, suspended the substantive sentence of imprisonment of appellants (co-accused) Ismail @ Shakti Ahmed Shah, Halimabee Shah and Shabana Shah.

6. The Evidence of PW 1 – Syed Majed shows that applicant nos.1 and 2 herein assaulted the deceased Heena. If we see the post-mortem report, the cause of death of Heena is head injury, which has been caused by applicant no.3 – Arbaz, whose application has not been pressed. Therefore, it is *prima facie* seen that the assault by applicant no.3 – Arbaz led to death of Heena.

7. Applicant nos.1 and 2 have been convicted with the aid of Section 149 of Indian Penal Code. Both applicant nos.1 and 2 are women. Applicant no.2 is behind the bars since inception, i.e. for four and half years. There is no possibility that the appeal would come up for final hearing in the near future.

8. In view of the above, we pass the following order:-

(i) The application is allowed to the extent of applicant nos.1 and 2.

(ii) During pendency of the appeal, the substantive sentence of imprisonment imposed against applicant nos.1 and 2 namely, Nilofar Jafar Khan and Nasimabee Jafar Khan, by learned Sessions Judge, Jalna, vide order dated 13.12.2023 in Sessions Case No.157 of 2020, to stand suspended. Applicant nos.1 and 2 namely, Nilofar Jafar Khan and Nasimabee Jafar Khan be released on bail on executing P.R. Bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) each with one surety each in the like amount.

(iii) The application stands disposed of accordingly.

[NEERAJ P. DHOTE, J.]

[R.G. AVACHAT, J.]

KBP