



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2769 OF 2024
IN
CRIMINAL APPEAL NO. 649 OF 2024

Rajashri Suresh Adkine

..APPLICANT

VERSUS

State of Maharashtra

..RESPONDENT

....

Mr. S.G. Bobade, Advocate for applicant

Mr. G.A. Kulkarni, A.P.P. for respondent - State

....

CORAM : R.G. AVACHAT AND
NEERAJ P. DHOTE, JJ
DATE : 12th AUGUST, 2024

PER COURT :

1. This is an application for suspension of substantive sentence of imprisonment imposed by Additional Sessions Judge, Nanded in Sessions Case No. 116 of 2020 vide judgment and order dated 25th January, 2023 thereby convicting the applicant woman for the offence punishable under Section 302 of the Indian Penal Code.

2. In short, case of the prosecution is that the applicant threw her two years old child before a moving truck, which resulted in his death. The applicant's husband lodged the report and the offence of Murder was registered against the applicant. It is the case of prosecution that the husband was suspecting character of the applicant and denying the paternity

of child which was born to the applicant. Due to annoyance, the applicant committed the said act of pushing her son in front of a moving truck.

3. It is submitted by learned counsel for the applicant that the child was dropped from the applicant's hand and succumbed to the injuries. He submits that the applicant's husband, who lodged the report, has not supported the case of prosecution. He submits that the truck driver has not been examined to prove that the applicant's son was run over by the truck. He ultimately submits that as there is no evidence against the applicant, the criminal application be allowed.

4. Though the application is opposed by learned A.P.P., she submits that the truck driver was not examined by the prosecution and the applicant's husband turned hostile. She urged that the application be rejected.

5. Admittedly, there is no eye witness to the incident. The applicant's husband, who had set the criminal law in motion, did not support the case of prosecution. Driver of the truck is not examined, and therefore, there is no evidence to prove that the applicant had thrown her son before a moving truck and he died thereby. The applicant is a woman, behind bars since May 2020, i.e. for more than four years. Also there is no possibility that the appeal would be heard in near future.

6. In view of above, the execution of substantive sentence of imprisonment to stand suspended pending the appeal. The applicant be released on her executing P.R. bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with one surety in the like amount.

7. Criminal application stands disposed of accordingly.

(NEERAJ P. DHOTE, J.)

SSD

(R.G. AVACHAT, J.)