

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

*INTERIM APPLICATION NO. 4003 OF 2022
IN
CRIMINAL APPEAL NO. 1162 OF 2022*

Seema Namdeo Chavan

.... Applicant

Versus

State Of Maharashtra

.... Respondents

Mr. Shreyas P. Barsawade, for the Applicant.

Mrs. P. P. Shinde, A.P.P for the Respondent – State.

*CORAM : REVATI MOHITE DERE &
MANJUSHA DESHPANDE, JJ.*

DATE : 25th JANUARY 2024

P.C. :

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

3. The applicant, *vide* Judgment and Order dated 15th September, 2022 passed by the learned Sessions Judge, Satara, in Sessions Case No. 5 of 2018, has been convicted for the offence punishable under Section 302 of the Indian Penal Code (“IPC”), and is sentenced to suffer imprisonment for life and to pay fine of Rs.5,000/-, in default, to suffer further simple imprisonment for four months.

4. Perused the papers. Admittedly, the prosecution case rests on circumstantial evidence. According to the prosecution, the circumstances as against the applicant, are that of last seen, and recovery of blood stained clothes at the instance of the applicant, under Section 27 of the Evidence Act. As far as evidence of last seen is concerned, the prosecution relies on the evidence of PW-3 Ashok Bhoite, father of the deceased and PW-6 Suraj Bhoite. We have perused their evidence. As far as PW-3 Ashok Bhoite is concerned, he states that on 19th July, 2017 when he went to the field, he saw the applicant running from near the shed and

that one Sunil was standing there, and later Sunil also went running from the spot.

5. As far as the evidence of PW-6 Suraj is concerned, he has only stated what was disclosed to him by Ashok (PW-3) i.e. he had seen Sunil Bodare and one unknown lady, running from near the shed. It appears that, subsequently Ashok Bhoite's supplementary statement was recorded, in which he disclosed that the person was not Sunil Bhoite, but Sunil Madane. The said evidence of PW-3 and PW-6 cannot be said to be evidence of last seen, in as much as, both do not speak about the accused being last seen with the deceased.

6. As far as evidence of PW-8 Sunil Madane is concerned, although the said witness has stated that he had last seen the applicant with the deceased, the said witness, for reasons best known, has been declared as hostile.

7. As far as recovery of blood stained clothes are

concerned, at the instance of the applicant, the blood group found on the clothes of the applicant, is stated to be inconclusive.

8. Considering the aforesaid evidence and the fact that the applicant is in custody for the last six years i.e. from the year 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 her 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.20,000/- 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 her 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.

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

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

MANJUSHA DESHPANDE, J. ***REVATI MOHITE DERE, J.***