

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO.1733 OF 2024
IN
CRIMINAL APPEAL NO.654 OF 2017

Madina Kasim Shaikh .. Applicant/Appellant

Versus

State of Maharashtra .. Respondent

Mr.Aniket Vagal a/w Kunal Pednekar and Savvy Kolhekar for the Applicant.

Ms.M.M. Deshmukh, APP for the State.

CORAM: NITIN W. SAMBRE &
MANJUSHA DESHPANDE, JJ.
DATED : 11th OCTOBER, 2024

P.C:-

1 Heard the learned counsel for the Applicant and the learned APP for the State.

2 Post conviction under an offence punishable under Section 302 read with 34 of the IPC, the co-accused viz. Accused No.1 Vakil Ahmed Abdul Kalam Ansari was directed to be released on bail on 15.02.2018 by the orders of this Court. The appeal is not likely to be heard in near future.

3 The role attributed to the present Applicant is, Accused No.1 being her paramour, committed murder of her husband who was on impediment

in extra marital relations between accused Nos.1 and 2. The seizure of blood stained Odhani is an incriminating circumstance against the Applicant. The case of the prosecution rests on the circumstantial evidence.

4 In the aforesaid background, having regard to the fact that the case of the prosecution against the Applicant is at par with that of the Accused No.1 from whom the rope was discovered under Section 27 of the Indian Evidence Act. PW 4 has deposed about the finger print of accused No.1 on the said rope. The testimony of PW 4 was disbelieved by the trial Court.

5 As far as testimony of PW 3 is concerned, even if there is seizure, that cannot be an incriminating circumstance to be relied on for further detention of the Applicant, who has already suffered for more than 10 and half years of incarceration. That being so, we deem it appropriate to allow the Application.

6] We direct the trial Court to fix the bail conditions.

Interim Application No.1733/2024 stands allowed in the aforesaid terms.

(MANJUSHA DESHPANDE,J.)

(NITIN W. SAMBRE, J.)