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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 4802 OF 2024
IN
CRIMINAL APPEAL NO. 1269 OF 2024

Sherbanu Khan @ Jayda Babu Khan

...Applicant

Versus

State of Maharashtra

...Respondent

Mr. Vikrant V. Phatate, for Applicant.

Ms. R.D. Humane, APP for Respondent/State.

CORAM : M.M. SATHAYE, J.

DATE : 12th DECEMBER, 2024

P.C. :

1. Heard learned counsel for the parties.
2. This is an application by Applicant/Accused No.2 for suspension of sentence under the impugned Order dated 15.04.2024 passed by Additional Sessions Judge, Greater Mumbai in Sessions case No. 711 of 2023 and for interim bail. Under the impugned Order, the Applicant/Accused No.2 is convicted for the offence punishable u/s.394 of Indian Penal Code and sentenced to suffer rigorous imprisonment of three years in addition to fine.
3. Learned counsel for the Applicant submits that though the Applicant was on bail during the pendency of the trial for some time, she has already suffered detention of about 2 years and 5 months out of 3 years sentence.

4. Considering that this is short sentence of fixed period, unless exceptional circumstances exist, bail should be favorably considered. The prosecution has not brought to the notice of the Court any exceptional circumstances or antecedents about the Applicant or any misuse of liberty by her during bail period. The appeal is admitted today and it is not likely to be taken for final hearing in short time.

5. Perusal of the Judgment shows that recovery at the instance of Applicant / Accused No.2 is that of identity card of the informant and railway ticket. According to the case of the prosecution only Accused No.1 was apprehended from the spot. It is recorded in impugned judgment paragraph no. 19 that informant in his evidence has not stated that the Applicant / Accused No. 2 caused grievous hurt to him.

6. In these facts and circumstances, considering the short sentence awarded as well as detention already suffered by the Applicant who is a lady, I am inclined to grant bail.

7. Hence, the Application is allowed as under.

a) Remaining sentence of the Applicant under Order dated 15.04.2024 in Sessions case No. 711 of 2023 passed by Addl. Session Judge (Court No. 27), Gr. Mumbai, is suspended.

b) The Applicant be released on bail on executing PR. Bond of Rs.15,000/- with one or two surety, in like amount.

c) The Applicant is directed to report to the concerned police station, if so required.

(M.M. SATHAYE, J.)