



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO.3933 OF 2024**

IN

CRIMINAL APPEAL NO.1073 of 2024

Shankaribai Jumesh Rathod	Applicant
In the Matter in Between:	
Shankaribai Jumesh Rathod	Appellant
Vs.	
The State of Maharashtra	Respondent

Mr. Anush Shetty i/b Dr. Yug Mohit Chaudhry, for Applicant/
Appellant.
Mr. V. B. Konde Deshmukh, Addl. PP for Respondent-State

**CORAM : REVATI MOHITE DERE &
DR. NEELA GOKHALE, JJ.
DATE : 27th JANUARY 2025.**

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 her aforesaid Appeal.
3. The Applicant vide judgment and order dated 24th December 2020 passed by the learned Sessions Judge, Mumbai in Sessions Case No.503 of 2014 has been sentenced alongwith other

accused for the offence punishable under Section 302 read with 34 and 120-B of the Indian Penal Code. For the offence punishable under Section 302 read with 34 of the Indian Penal Code, the Applicant has been sentenced to suffer imprisonment for life and to pay fine of Rs.10,000/-, in default to suffer further Rigorous Imprisonment for one year. Separate sentence has been awarded for the offence punishable under Section 120-B of the Indian Penal Code. Both the said sentences are directed to run concurrently.

4. Perused the papers.

5. Learned counsel for the Applicant seeks bail on the ground of parity i.e. parity with the co-accused Shantabai whose sentence has been suspended and who is enlarged on bail by this Court vide order dated 5th February 2024.

6. The prosecution case essentially rests on circumstantial evidence i.e. last seen evidence of P.W.17 and a phone call made by the Applicant to the deceased from P.W.4's mobile phone. As far as last seen theory is concerned, P.W.17 in his evidence has stated that he had seen both, Shankaribai and Shantabai i.e. the Applicant alongwith the

deceased prior to the deceased's demise. Shantabai has been enlarged on bail vide order dated 5th February 2024, since no overt act was attributed to her.

7. As far as the Applicant is concerned, no overt act has also been attributed to her. Over act has been attributed to co-accused Shankar i.e. Shankar assaulted the deceased with a knife. It is not in dispute, that the Applicant is in custody for about 11 years. The Appeal is of the year 2023 and is not likely to be heard in the immediate near future.

8. Considering the role of the Applicant and the long incarceration and since no specific overt act has been attributed to the Applicant, the Applicant's sentence is suspended and she is enlarged on bail pending the hearing and final disposal of her 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.25,000/-, with one or two sureties in the like amount;

ii) The Applicant shall report to the trial Court, once in six 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.

(DR. NEELA GOKHALE, J.)

(REVATI MOHITE DERE, J.)