

**(2024) 02 MP CK 0040**

**In the Madhya Pradesh High Court**

**Case No : Criminal Appeal No. 156 Of 2024**

Savita Vishwakarma

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

**Date of Decision : 13-02-2024**

**Acts Referred:**

Code Of Criminal Procedure, 1973 — Section 389(1)

Indian Penal Code, 1860 — Section 115, 120(B), 201, 203, 302

**Citation : (2024) 02 MP CK 0040**

**Hon'ble Judges : Sujoy Paul, J;Vivek Jain, J**

**Bench : Division Bench**

**Advocate : Madan Singh, Akhilendra Singh**

## Judgement

Heard on I.A. No.669 of 2024, an application under Section 389(1) of the Cr.P.C for suspension of sentence and grant of bail to appellant - Savita Vishwakarma arising out of judgment dated 26.12.2023 delivered in S.T. No.575/2016 passed by 15th Additional Sessions Judge, Jabalpur (MP).

The appellant - Savita Vishwakarma has been convicted under Sections 120(B) read with 115, 302 read with 120(B), 201 read with 120(B) and 203 read with 120(B) of the I.P.C. and sentenced to undergo R.I. for seven years with fine of Rs.5,000/-, Life Imprisonment with fine of Rs.10,000/-, R.I. for three years with fine of Rs.2,000/- and R.I. for two years with fine of Rs.1,000/-respectively, with default stipulations.

Learned counsel for the appellant submits that as per prosecution story, the appellant lodged a Gum Insan report on 05.03.2016 about her missing husband. An unknown dead body was found in a canal on 02.03.2016. During investigation, it was found that it is dead body of Vinod @ Raju Vishwakarma husband of the appellant. Shri Madan Singh, learned counsel for the appellant submits that there is no eye witness to the incident. The case of the prosecution is based on circumstantial evidence. By taking this Court to the statement of Investigating Officer (PW-15) (para 50 and 51), it is urged that this witness

candidly admitted that there was no last seen witness, which had witnessed the appellant with the deceased for the last time. The appellant is arraigned solely on the basis of recovery of a mobile phone. There is no other legal evidence, which connect the appellant with commission of crime. On the basis of ocular evidence of family members of deceased Rajkumar Vishwakarma (PW-2), Meena Vishwakarma (PW-8), Rishi Vishwakarma (PW-9) and Arjun Vishwakarma (PW-10), it cannot be said that appellant had any illicit relation with co-accused - Rajesh Tiwari. There is no iota of legal evidence to establish the same and connect the said relation with commission of crime. The appellant is a married woman and remained in custody during trial for six months and from the date of judgment, she is again in custody. Final hearing of this appeal is not possible in near future. Thus, remaining jail sentence of the present appellant may be suspended.

Learned Government Counsel for the State opposed the prayer on the basis of objection.

Considering the aforesaid factual backdrop and without expressing any conclusive opinion on the merits of the case, we deem it proper to suspend the remaining jail sentence of this appellant.

Accordingly, I.A. No.669 of 2024 is allowed.

Subject to depositing the fine amount (if not already deposited), the remaining jail sentence of this appellant is hereby suspended and it is directed that the appellant - Savita Vishwakarma be released on bail on her furnishing a personal bond for a sum of Rs.30,000/- (Rupees Thirty Thousand only) with one solvent surety of the like amount to the satisfaction of the trial Court with a further direction to appear before the trial Court, District Jabalpur on 15.04.2024 and also on such further dates as may be fixed by the trial Court in this regard during the pendency of this appeal.

Certified copy as per rules.