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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1820 OF 2013
IN
CRIMINAL APPEAL NO. 498 OF 2013

Rakesh Mahadu Dandekar

.. Applicant

Vs.

The State of Maharashtra

.. Respondent

Ms. Anjali Patil for applicant.

Mrs. S. D. Shinde, APP for State.

CORAM: P. V. HARDAS &
DR. SHALINI PHANSALKAR-JOSHI, JJ.

JANUARY 30, 2015.

P.C.

1. By an order passed by us in Criminal Application No. 89 of 2015, this application has been restored to file. At the request of the learned counsel for the applicant and with the consent of learned APP, this application is heard today.

2. By this application, the applicant seeks suspension of the substantive sentence of imprisonment and his release on bail pending the decision of the appeal.

3. The applicant/Original Accused No. 1, along with other

accused, stands convicted for offence punishable under Sections 302, 120-B and 201 of the IPC and is sentenced to various terms of imprisonment, including the imprisonment for life. The applicant and the co-accused are alleged to have killed four people. The applicant admittedly was not on bail during trial.

4. The case against the applicant is based on circumstantial evidence. The circumstances relied on by the prosecution are, (I) confession of the co-accused, (ii) discovery memorandum under Section 27 leading to the discovery of the dead bodies and (iii) finding regarding the criminal conspiracy.

5. Learned counsel for the applicant has urged before us that there are several infirmities in the recording of the confession and no reliance could be placed on the discovery memorandum under Section 27 as prior to recording of the said discovery memorandum, the police were aware about the place where the dead bodies were to be found. It is also urged before us that there is no evidence supporting the finding of criminal conspiracy. The learned APP has opposed the aforesaid submissions on the ground that the said submissions pertain to re-appreciation of evidence which cannot be done at this stage. The trial court after appreciation of the evidence has relied on the confession as well as the discovery memorandum.

6. In the light of the fact that there is prima faice overwhelming evidence against the applicant, coupled with the fact that the submissions

advanced before us pertain to re-appreciation of evidence, we are not inclined at this stage to suspend the sentence and release the applicant on bail. However, it appears that the applicant has been in jail since his arrest i.e. from 2008. In that light of the matter, therefore, in our opinion, this is a fit case for expediting the hearing of the appeal.

7. Accordingly, the hearing of the appeal is expedited. We further direct that the appeal filed by the applicant, along with the appeal of the co-accused, be added to the final hearing board at its appropriate place on the board after the receipt of the paper book.

8. Application is accordingly dismissed with the aforesaid directions.

(DR. SHALINI PHANSALKAR-JOSHI,J.)

(P. V. HARDAS,J.)