

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.471 OF 2018

IN

CRIMINAL APPEAL NO.749 OF 2018

Suhas Dashrath Jagtap.] ... Applicant/
Orig.Accd.No.1

Versus

The State of Maharashtra.] ... Respondent

Mr. Dilip Bodake for Applicant.
Mr. V. V. Gangurde, APP for State.

**CORAM :- B. R. GAVAI &
SARANG V. KOTWAL, JJ.**
DATE :- 19 JULY, 2018

P. C. :-

1. This is an application for suspension of sentence and grant of bail during pendency of the Appeal.
2. Heard Mr. Dilip Bodake, learned Counsel for Applicant and Mr. V. V. Gangurde, learned APP for State.

3. Mr. Bodake, learned Counsel for the Applicant, submitted that perusal of evidence of victim would reveal that in his statement recorded under Section 161 of the Cr.P.C., the present Applicant has not been named by him. Mr. Bodake further submitted that the Applicant was on bail during trial and as such on that ground, the Application needs to be considered.

4. The Hon'ble Apex Court, in the case of *Kishori Lal Vs. Rupa and Others*¹, has held that after conviction, the factor that the Applicant was on bail during trial, would not weigh much with the Courts. The order of conviction is a circumstance which will be taken into consideration in the post-conviction application. Their Lordships have held that only in the compelling circumstances, the Courts can take into consideration the factor that the Applicant was on bail during trial. In that view of the matter, we are not inclined to consider the said contention.

5. We have perused the evidence of PW 3 Amit. In the examination-in-chief as well as in the cross-examination, he has

¹ (2004) 7 Supreme Court Cases 638

identified the present Applicant who had accompanied the main accused, namely, Sawant. The present Applicant was throughout with the victim and the said Sawant when PW 3 Amit was kidnapped for ransom by them. In view of the above, we do not think that the Applicant has made out case for suspension of sentence and grant of bail during the pendency of the trial.

7. The Application is rejected.

(SARANG V. KOTWAL, J.)

(B. R. GAVAI, J.)