

JPP

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL APPLICATION NO. 1878 OF 2018

in

CRIMINAL APPEAL NO. 99 OF 2014

Roshan Anant Sawant

... Applicant.

V/s.

The State of Maharashtra

... Respondent.

Mr. Manohar N. Rajput for the Applicant.

Mr. K.V. Saste, APP for Respondent.

***CORAM : B.P. Dharmadhikari and
Sarang V. Kotwal, JJ.***

DATE : 4 December 2018

P.C. :

Heard learned Counsel who points out that after 8 February 2013 i.e. date of incident and conviction vide judgment dated 21 December 2013, the Applicant continues in custody and therefore, has put in more than five years and six months in jail. Learned Counsel fairly invites our attention to orders passed on earlier Bail Application on 4 March 2014, 10 February 2015 and 4 April 2017. According to him, though Appeal was expedited and directed to be heard, it has not been heard till date and is not even

on board. He relies upon judgment of the Hon'ble Apex Court in the case of *Surinder Singh alias Shingara Singh v/s. State of Punjab*, reported in *(2005) 7 SCC 387* and adds that between 11 October 2018 to 19 November 2018 the Applicant was also permitted to avail furlough.

2. Learned APP states that bail was rejected by a reasoned order on 4 March 2014 and reliance on the judgment of Hon'ble Apex Court in rigid facts is misconceived.

3. Hon'ble Apex Court has found that the judgment delivered by Punjab and Haryana High Court in the case of *Dharam Pal v/s. State of Haryana* reported in *(2000) 1 Chan LR 74*, is in the nature of guidelines. However, it has looked into facts of matter presented to it and because co-accused of Appellant Surinder Singh was released on bail by High Court but Surinder Singh continued in custody. It is observed that Surinder Singh deserves to be released on bail.

4. In the present matter, this Court has on 4 March 2014 found that ornaments of deceased were recovered under Section 27 of Evidence Act, 1872 at the instance of present Applicant and shirt seized from him had blood stains of group of deceased.

5. In this situation, as there is no change of circumstance, Bail Application as filed is not maintainable.

6. However, we list Criminal Appeal for final hearing on 14 February 2019.

(Sarang Kotwal, J.)

(B.P. Dharmadhikari, J.)