

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

**CRIMINAL APPLICATION NO. 1063 OF 2018
IN
CRIMINAL APPEAL NO.54 OF 2013**

Datta Siddram Kamble

...Appellant

V/s

The State of Maharashtra

...Respondent

Mr. Harshad Nimbalkar and Mr. Hrishi Ghorpade i/b Mr. Satyam Nimbalkar for appellant.

Ms. M. H. Mhatre, APP for the respondent - State.

**CORAM : B. P. DHARMADHIKARI &
MRS. SWAPNA S. JOSHI, JJ.
DATE : 04th July, 2019**

P.C.:

1. Original accused No.4 in jail since about nine years is seeking a bail on the ground of parity.
2. After hearing the respective Counsels, we find that the accused No.2 has been given bail on 31st January, 2019 while passing order in Criminal Appeal No.1049/2018. Accused No.6 Shekhar was given bail on 28th February, 2019. Thereafter, accused No.3 Rupesh has been given bail on 16th April, 2019.
3. In this backdrop, learned Advocate submits that the same inconsistencies in evidence exist in case of this accused also. Apart from it, PW-1 and PW-2 have created confusion whether he arrived at alleged spot on motorcycle or in car. It is submitted that though he was an accused in another criminal case, he has been acquitted by Competent Court.
4. Learned APP is opposing to grant of bail. She submits that acquittal

of present applicant is not on merits but as the witnesses turned hostile, trial Court could not convict him.

5. Present applicant (accused No.4) therefore as on today, does not have any past criminal record. This Court has looked into inconsistency and contradictions in its earlier orders. Business rivalry has also been considered. We therefore find that reasons recorded in earlier orders hold good even qua accused No.4.

6. In this situation we allow this application and direct release of applicant on interim bail on following terms and conditions :

- i) The substantive sentence imposed upon the applicant Datta Siddram Kamble by the impugned Judgment and order dated 9/11/2012 passed by the learned Additional Sessions Judge in Sessions Case No.703/2010 shall stand suspended till the final disposal of the appeal and the applicant shall be enlarged on bail in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two local solvent sureties in the like amount.
- ii) The bail is granted subject to the condition that the applicant will furnish detailed address of his place of residence where he proposes to reside after he is enlarged on bail and contact telephone/Cell number to the concerned Jail Superintendent.
- iii) The bail is granted subject to condition of the applicant reporting to the concerned Trial Court at 11.00 a.m. on first Monday of every January and July of every calendar year till the disposal of appeal.
- iv) If the applicant fails to report to the Trial Court as aforesaid, the Trial Court shall immediately submit a report to that effect to the Registrar (Judicial-I) of this Court who shall immediately place the report before the concerned Court.
- v) Application is disposed of on above terms.

(MRS. SWAPNA S. JOSHI, J.)

(B. P. DHARMADHIKARI, J.)