

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1390 OF 2018
IN
CRIMINAL APPEAL NO.275 OF 2016**

Sujit Maruti Maske

....Applicant
(Original Accused No.2)

In the matter of

1. Bharat Balasaheb Ghasgase
2. Sujit Maruti Maske

....Appellants
(Original Accused Nos.1 and 2)

versus

The State of Maharashtra

....Respondent

Mr. Pranil Sonavane i/b. Mr. Prashant Patil, advocate for the applicant.
Mr. S. S. Hulke, APP for the State.

**CORAM : RANJIT MORE &
SURENDRA P. TAVADE, JJ.**

DATE : 13th JANUARY, 2020.

P. C. :

1. Heard learned counsel for the applicant and learned APP for the State.

2. The applicant/original accused No.2 and original accused No.1-Bharat Balasaheb Ghasgase along with other accused were tried by learned Additional Sessions Judge, Islampur, in Sessions Case No. 9 of 2013. By judgment and order dated 29th March, 2016, the applicant-accused No.2 and accused No.1- Bharat Balasaheb Ghasgase were

convicted for offence punishable under Section 302 read with Section 34 of the Indian Penal Code, 1860 and sentenced to suffer Life Imprisonment. Rest of the accused were acquitted. The present applicant-accused No.2 and accused No.1- Bharat Balasaheb Ghasgase filed an appeal being criminal appeal No. 275 of 2016. The same is admitted. The applicant earlier preferred criminal application No.776 of 2016 for bail during pendency of the appeal. However, the same was dismissed as withdrawn.

3. The present application is the second bail application of accused No.2. The bail is claimed on the ground of change in circumstances and seeking parity with original accused No.1-Bharat Balasaheb Ghasgase, who has been granted bail by co-ordinate Division Bench by an order dated 8th August, 2018 in criminal application No. 1046 of 2018.

4. The role played by the present applicant/accused No.2 and accused No.1 – Bharat Balasaheb Ghasgase is similar and the evidence adduced against them is also identical. The prosecution mainly relied upon the evidence of eye witnesses viz. PW-19 Deepak Shinde and evidence of PW-12-Rajaram Keshav Kadam. PW-19 Deepak Shinde, however, has not supported the prosecution's case and has turned hostile. PW-12 Rajaram Keshav Kadam is examined to prove oral dying

declaration given to him. The Division Bench (Coram : B.R.Gavai and Sarang V. Kotwal, JJ.) while granting bail to original accused No.1-Bharat Balasaheb Ghasgase, observed that the evidence of the medical expert-PW-22 Dr. Laxman Shivaji Pol shows that considering the injuries mentioned in column 20 and 21, the death of the deceased might have occurred instantly.

5. In the above circumstances, in our considered opinion, the applicant/original accused No.2 is entitled to seek parity, especially since he is in custody since last more than eight years. We accordingly, dispose of the criminal application by passing the following order :

- i. The sentence imposed on the applicant/accused No.2-Sujit Maruti Maske by the Additional Sessions Judge, Islampur, in Sessions Case No. 9 of 2013 is hereby suspended till the decision of appeal.
- ii. The applicant be released on bail on his furnishing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount to the satisfaction of the trial Court.
- iii. The applicant shall not enter Sangli District during the pendency and till the decision of appeal. The applicant shall intimate his address, where he resides, to the Ashta Police Station, Dist. Sangli and also report to the police station of the area where he would reside, on every Monday between 8.00 a.m. to 10.00 a.m..
- iv. The applicant shall not leave India without prior permission of

the Court.

- v. The applicant shall give address and contact details at which he shall always be available during the pendency of appeal.
- vi. Similar details in relation to the sureties shall also be submitted.
- vii. The applicant shall not in any way directly or indirectly attempt to contact or pressurise either complainant or any of the witnesses.
- viii. The applicant shall keep vakalatnama of his advocate alive and valid till the appeal is finally decided by this Court and he shall not be entitled to any fresh notice at the stage of final hearing.
- ix. The applicant shall report to the Superintendent/Registrar of District and Sessions Court, Islampur, on first working Monday in every two months.
- x. The applicant's failure to observe any of the terms and conditions of this order shall entitle the Respondent-State to take him in custody.

[SURENDRA P. TAVADE, J.]

[RANJIT MORE, J.]