

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 228 OF 2020
IN
CRIMINAL APPEAL NO.749 OF 2018**

Suhas Dashrath Jagtap

....Applicant/
Appellant

Versus

The State of Maharashtra

....Respondent

Mr. Dilip Bodake, advocate for the applicant/appellant.
Mr. Arfan Sait, APP for the State.

**CORAM : PRASANNA B. VARALE &
N. R. BORKAR, JJ.**

DATE : 20th JULY, 2021.

P.C. :

1. Heard learned counsel for the applicant. It is submitted that the applicant is before this Court with a prayer for releasing him on temporary bail . It is not in dispute that the applicant was an accused in Sessions Case No.845 of 2008 and by the judgment and order dated 5th January, 2018, the learned Additional Session Judge, C.R. No.4, Pune, was pleased to hold the applicant/accused guilty and awarded conviction and sentence. Being aggrieved by the judgment and order of the learned Sessions Judge, an appeal is preferred in this Court bearing criminal appeal No.749 of 2018. The appeal was admitted by an order dated 11th June, 2018. The applicant had preferred an application

Digitally
signed by
SHUBHADA
SHANKAR
KADAM
Date:
2021.07.20
17:41:39
+0530

seeking bail pending appeal being application No.471 of 2018 and vide order dated 19th July, 2018, the Division Bench of this Court was pleased to find that no case is made out for suspension of sentence and grant of bail during the pendency of the appeal. Resultantly, the application was rejected.

2. Learned counsel for the applicant, by inviting our attention to the documents placed on record at Exhibit "B" submitted that the applicant's father recently suffered paralytic attack so also he is having 40% disability of ears and is thus bed-ridden. The mother of the applicant is suffering from joint pain and taking treatment at Dr. Deshmukh Hospital, Barshi and is advised to undergo surgery. It is submitted by learned counsel for the applicant that as there is no adult member in the family except the applicant to take care of his parents, the applicant be released by granting temporary bail. It is also submitted by learned counsel for the applicant that the applicant had submitted an application seeking parole/furlough on the ground that the applicant's father is suffering from paralysis and that application was rejected by the competent authority.

3. On perusal of the document under caption "Certificate" issued by S.C.S.M.J. Hospital, Solapur, we find that this certificate firstly only refers to the 40% disability of the person in respect of hearing capacity

i.e. in both ears. The interesting factor which emerged from the perusal of this document is that remark against the "Issue date" column at serial No.6 is mentioned as "permanent". The certificate further shows that there is only a signature on caption "civil surgeon" and there is no seal below the signature. Thus, this document under the caption "certificate" failed to inspire our confidence that it is issued by competent authority for the reasons above referred. It also failed to satisfy the confidence of the Court for another reason i.e. if the certificate is to be obtained in relation to any physical disability, such certificate is always issued by a competent medical board. The certificate which is placed on record is silent on the aspect as to whether it was issued by the competent medical board. Another reason for not accepting this document in support of the applicant is that it is stated in the application and submitted by learned counsel for the applicant that the father of the applicant is suffering from paralysis, however, nowhere in the certificate a reference to the fact that the father of the applicant suffered paralysis/ paralytic attack is mentioned.

4. The second ground urged before this Court that the mother of the applicant is also unable to take care of the father of the applicant cannot be accepted in the backdrop of certificates placed on record. The certificates placed on record show that the mother of the applicant had some fracture in the year 2019 and she was advised surgery under the

certificate issued on 7th September, 2019. It cannot be said that the mother of the applicant would remain in the same physical condition even after 2 years of issuance of the certificate dated 7th September, 2019. Needless to state this is the only certificate placed on record in relation to the submission of the ailment of the applicant's mother and there is no latest certificate indicating that the mother of the applicant is still suffering from the same ailment.

5. Considering all the above mentioned aspects, we are of the opinion that the application is wholly devoid of any merit and deserves to be rejected at the threshold and the same is, accordingly, rejected.

(N. R. BORKAR, J.)

(PRASANNA B. VARALE, J.)