

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO. 730 OF 2020
IN CRIMINAL APPEAL NO.826 OF 2022**

**SHIVAJI S/O. RAVAN BHALERAO
VERSUS
THE STATE OF MAHARASHTRA AND ANR**

Mr. M. P. Bhaskar, Advocate for the appellant
Mr. R. V. Dasalkar, APP for the respondent/State

**CORAM : R. G. AVACHAT &
R. M. JOSHI, JJ.
DATED : 8th DECEMBER, 2022**

PER COURT :-

1. By this application, applicant is seeking suspension of substantive sentence imposed against him by passing impugned judgment and order dated 1st June, 2013 in S.T. No. 33 of 2012.
2. Learned counsel for the applicant submits that except for the statement of the informant which is recorded after two days of the alleged snatching of the deceased boy by the accused, there is absolutely no other evidence on record to show his involvement in the crime.
3. Learned APP opposed the said submission by pointing

out that considering the previous acquaintance of the accused with the informant there was reason for non lodging of immediate report and hence for alleged delay no benefit can be derived by accused.

4. At this stage consideration of material evidence on record suggest that except for the statement of informant that accused sought sexual favours from her and as she refused the same there occurred quarrel between them and consequently, accused took her son away. If the incident has occurred in such manner, it does not find to any reason as to why no immediate report was lodged about the same with police by her. The report in this case appears to have been given after two days of the said alleged incident i.e. after finding of dead body. Except this belated statement of the informant there is absolutely no evidence on record to connect appellant with this crime. The autopsy report suggest that the boy died due to drowning. Thus, we find substance in the contention of the advocate for the appellant that it could be a possible case of accidental drowning and later on appellant is implicated therein. We are informed

that the appellant is in jail last 10 years, except for bail during Covid-19 pandemic. In the aforesaid circumstances we do not find any reason to keep him further behind bars. Hence the order.

ORDER

- (i) Application is allowed.
- (ii) Pending the appeal, the substantive sentence of imprisonment imposed by the trial Court is suspended. The applicant be released on bail on her executing P.R. bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with one surety in the like amount.
- (iii) Bail in trial Court.

(R. M. JOSHI, J.)

(R. G. AVACHAT, J.)

ssp