

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2725 OF 2022 IN
CRIMINAL APPEAL NO. 600 OF 2022

Lobhaji @ Pintu Lodbaji Sangale

Applicant

Versus

The State of Maharashtra & another

Respondents

Ms. Ashwini Lomte, Advocate holding for Mr. S. J. Salunke, Advocate for the applicant.

Mr. R. B. Bagul, APP for respondent No. 1 – State.

Mr. R. S. Wani, Advocate (appointed) for respondent No. 2.

CORAM : R. G. AVACHAT &

R. M. JOSHI, JJ.

DATE : 20th OCTOBER, 2022.

PER COURT :

1. Applicant is seeking suspension of life imprisonment imposed against him in Special (Atro) Case No. 41/2020 vide order dated 15th July, 2022, passed by Additional Sessions Judge, Basmathnagar, Dist. Hingoli.

2. Heard Ms. Lomte, learned counsel for the applicant, Mr. Bagul, learned APP for the State and Mr. Wani, learned counsel for respondent No. 2.

3. Learned counsel for applicant submits that there is no evidence on record to connect the applicant with the crime in question and learned Trial Court has committed error in convicting him. The said contention is opposed by learned APP by placing reliance upon the impugned judgment. Learned counsel for respondent No. 2 vehemently opposed the application by contending that the offence is serious in nature and since the applicant is convicted on full fledged trial, he is not entitled for suspension of sentence and enlargement on bail.

4. *Prima facie* perusal of the evidence on record suggests that there is discrepancy in the testimony of Chhaya, wife of the deceased and Pratibha, daughter of the deceased, in respect of quarrel occurred prior to the incident in question. The only witness who prosecution claims to have seen deceased and appellant together, has not supported prosecution except for making stray statement. As far as recovery of handkerchief at the instance of the appellant is concerned, the Medical Officer has not opined the possibility of strangulation being caused by the said handkerchief. Apparently, there is no evidence to connect said recovery with the incident of strangulation.

5. There is no possibility of taking up of this appeal for hearing in near future. Considering circumstances *prima facie* appearing from record, it is a fit case for suspension of sentence. Hence, the following order :-

ORDER

(i) Criminal application is allowed in terms of prayer clauses (B) and (C).

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

(iii) Bail before the trial Court.

(iv) Fees of Mr. R. S. Wani, learned counsel, is quantified to Rs.6,000/- (Rupees Six Thousand).

(R. M. JOSHI)
Judge

(R. G. AVACHAT)
Judge