

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL INTERIM APPLICATION NO.1141 OF 2021
IN
CRIMINAL APPEAL NO.594 OF 2021

Sddamhusain Balu Makubhai : Applicant/Appellant.

Versus

The State of Maharashtra : Respondent.

Mr. Rohan P Surve – Appointed advocate for the Applicant/Appellant.

Mr. Y M Nakhwa, APP for the Respondent/State.

CORAM : S. S. SHINDE,
SARANG V. KOTWAL, JJ

DATE : 16th March 2022

P.C.

1 This is an application filed by the Applicant – original Accused for suspension of his sentence and enlarging him on bail.

2 Heard the learned counsel appearing for the Applicant and the learned APP appearing for the Respondent/State.

3 The learned counsel appearing for the Applicant/Appellant invites attention of this Court to the evidence of the prosecution witnesses and submits that the said evidence suffers from contradictions, omissions and improvements, and therefore, the same is unbelievable. He further invites attention of this Court to the medical evidence of PW-11 Dr. Smita Dhananjay Mahadik, and submits that PW-11 has deposed that the abrasions on the body can be possible due to keeping/putting the dead body in the vehicle of which

the sheets are broken. The learned counsel for the Applicant, therefore, submits that the Application may be allowed.

4 On the other hand, the learned APP appearing for the Respondent/State invites attention of this Court to the depositions of the prosecution witnesses in particular PW-1, PW-2 and PW-10 and submits that there is overwhelming evidence coupled with the corroborating piece of evidence, and therefore, this Court may not entertain the Application filed by the Applicant for suspension of sentence and enlarging him on bail.

5 We have given careful consideration to the rival submissions. We have also carefully perused the evidence of the prosecution witnesses in particular PW-1, PW-2 and PW-10, so also other evidence brought on record by the prosecution. In our prima facie opinion, the findings recorded by the Trial Court are sustainable as there is a sufficient evidence that the alleged offence had taken place in the house of the Applicant/Appellant at 10.00 pm. In that view of the matter, we do not wish to elaborate the reasons in this order as the Appeal filed by the Applicant/Appellant is pending for hearing and final disposal. No case for bail pending appeal is made out. The Interim Application stands rejected. However, the hearing of the Criminal Appeal No.594 of 2021 is expedited.

[SARANG V. KOTWAL, J]

[S. S. SHINDE , J]