

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

***CRIMINAL INTERIM APPLICATION NO.2322 OF 2022
IN
CRIMINAL APPEAL NO.593 OF 2022
(THROUGH JAIL)***

Appa @Sitaram Pandurang More ...Applicant

Versus

The State of Maharashtra and Anr. ...Respondents

Mr. Ranjeet H. Patil, for the Applicant.

Mr. A. R. Kapadnis, A.P.P for the Respondent No.1 – State.

None for the Respondent No.2.

PSI – Vishwajeet S. Gadwe, M.I.D.C, Kupwad Police Station, Sangli, is present.

***CORAM : REVATI MOHITE DERE &
SHARMILA U. DESHMUKH, JJ.***

DATE : 17th AUGUST 2022

P.C. :

1. Heard learned counsel for the parties.
2. By this interim application, the applicant seeks suspension of his sentence and enlargement on bail, pending the hearing and

final disposal of his aforesaid appeal.

3. The applicant alongwith other co-accused, vide Judgment and Order dated 25th January 2021, passed by learned Sessions Judge, Sangli, in Sessions Case No. 64 of 2016, has been convicted and sentenced as under:-

- for the offence punishable under Section 302 r/w Section 120-B of the Indian Penal Code, to suffer rigorous imprisonment for life and to pay fine of Rs.25,000/- each, in default, to suffer further rigorous imprisonment for 2 years;
- for the offence punishable under Section 120-B of the Indian Penal Code, to suffer rigorous imprisonment for life and to pay fine of Rs.5,000/- each, in default, to suffer further rigorous imprisonment for 6 months.
- Both the aforesaid sentences were directed to run concurrently.

As far as offences punishable under Sections 143, 144, 147, 148, 149 of the Indian Penal Code and Sections 4, 25 and 27 of the Arms Act and Section 135 of the Maharashtra Police Act, are concerned, the

applicant was acquitted of the said offences.

4. Mr. Patil, learned counsel for the applicant seeks bail on the ground of parity as well as on merits. He submits that the role of the applicant is similar to that of co-accused – Moula Abdul Mulla, whose sentence was suspended and who was enlarged on bail by this Court, vide order dated 7th June 2022. He further submits that the role of the applicant is also similar to that of co-accused – Hanmant Ananda Kamble, whose sentence was also suspended and who was enlarged on bail by this Court, vide order dated 21st October 2021. He relied on the said orders, which are from pages 129 to 139 of the application.

5. Learned APP does not dispute that the role of the applicant is similar to that of the said co-accused – Moula Abdul Mulla and Hanmant Ananda Kamble.

6. Perused the said orders dated 21st October 2021 and 7th June 2022, passed by this Court, suspending the sentences of co-accused – Moula Abdul Mulla and Hanmant Ananda Kamble and enlarging them on bail. This Court whilst releasing co-accused – Hanmant Kamble, has observed in para 5 of the order dated 21st October 2021 that *prima facie*, the finding recorded by the trial Court that the deceased was last seen in the company of the applicant alongwith the other co-accused was not in consonance with the evidence of PW4 – Nitin More, PW8 – Dhananjay Chavan and PW9 – Omkar Jadhav. As far as the evidence of PW9 – Omkar Jadhav is concerned, the said witness has turned hostile. As far as evidence of last seen is concerned, PW8 – Dhananjay Chavan has stated that the applicant was last seen in the company of the deceased, however, PW4 – Nitin More, has not named the applicant, as having last seen, the applicant in the company of the deceased. There is recovery of weapons, at the instance of the applicant. There was recovery of a blood stained weapon, even at the instance of co-accused – Moula Abdul Mulla and recovery of blood stained clothes, at the instance of

co-accused – Hanmant Kamble. The role of the applicant is thus similar to that of co-accused – Moula Abdul Mulla and Hanmant Ananda Kamble, whose sentences have been suspended and who have been enlarged on bail, pending the hearing and final disposal of their appeals.

7. Considering the aforesaid, having regard to the fact that the role of the applicant is similar to that of co-accused – Moula Abdul Mulla and Hanmant Ananda Kamble, the application is allowed and the applicant's sentence is also suspended and he is enlarged on bail, pending the hearing and final disposal of his Appeal, on the following terms and conditions :-

ORDER

- i) The applicant be enlarged on bail on furnishing P.R.Bond in the sum of Rs.25,000/- with one solvent surety in the like amount;
- ii) The applicant shall report to the trial Court, once in three months on the day/date specified by the trial Court, till his appeal is

finally disposed of;

iii) The applicant shall keep the trial Court informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time;

iv) If there are two consecutive defaults in appearing before the trial Court, the learned Judge shall make a report to the High Court and the prosecution would be at liberty to file an application seeking cancellation of bail.

8. The Application is allowed in the aforesaid terms and is accordingly disposed of.

9. All concerned to act on the authenticated copy of this order.

SHARMILA U. DESHMUKH, J.

REVATI MOHITE DERE, J.