

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

**INTERIM APPLICATION NO.2718 OF 2022
IN
CRIMINAL APPEAL NO.818 OF 2022**

**WITH
INTERIM APPLICATION NO.2717 OF 2022
IN
CRIMINAL APPEAL NO.818 OF 2022**

Bhimashankar Rangappa Mariaiwale Applicant
versus
State of Maharashtra Respondent

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- Mr. Mohammed Arif Siddique a/w Irfan Ansari a/w Siraj Ansari, Advocate for Applicant.
- Mr. R. M. Pethe, APP for the State/Respondent.

**CORAM : SARANG V. KOTWAL, J.
DATE : 19th AUGUST, 2022**

P.C. :

1. Leave granted to amend prayer clause in Interim Application No.2718 of 2022. Amendment to be carried out forthwith.
2. These Interim Applications are filed for suspension of sentence and release of Applicant on bail during the pendency and final disposal of Criminal Appeal No.818 of 2022.

3. Heard Mr. Mohammed Arif Siddique, learned counsel for the Applicant and Mr. R. M. Pethe, learned APP for the State.
4. The Applicant was the original accused in Sessions Case No.245 of 2019 before the Additional Sessions Judge, Solapur. Vide the impugned judgment and order dated 12/07/2022, the Appellant was convicted for commission of offence punishable u/s 304(II) of the Indian Penal Code and was sentenced to suffer rigorous imprisonment for three years and to pay a fine of Rs.5,000/-, in default of payment to suffer rigorous imprisonment for six months. He was also convicted for commission of offence punishable u/s 279 of the Indian Penal Code and was sentenced to suffer simple imprisonment for three months and to pay a fine of Rs.500/-, in default of payment to suffer simple imprisonment for fifteen days. He was also convicted for commission of offence punishable u/s 337 of the Indian Penal Code and was sentenced to suffer simple imprisonment for one month and to pay a fine of Rs.100/-, in

default of payment to suffer simple imprisonment for seven days.

In addition of these convictions, the Appellant was also convicted for commission of offence punishable u/s 183 of the Motor Vehicle Act and was sentenced to suffer simple imprisonment for two months and to pay a fine of Rs.200/-, in default of payment to suffer simple imprisonment for ten days. He was also convicted for commission of offence punishable u/s 184 of the Motor Vehicle Act and was sentenced to suffer simple imprisonment for two months and to pay a fine of Rs.200/-, in default of payment to suffer simple imprisonment for ten days.

Apart from these sections the Appellant was also convicted for commission of offence punishable u/s 134(b) r/w 177 of the Motor Vehicle Act and was sentenced to pay a fine of Rs.100/-, in default of payment to suffer simple imprisonment for seven days.

5. All the substantive sentences were directed to run concurrently. He was granted set off u/s 428 of Cr.P.C.
6. The prosecution case is that on 17/07/2017 some women labourers at Mangoli Fata were walking by the side of road. The Applicant was driving his vehicle known as Chhota Hatti. He drove it in a fast speed and dashed into those women labourers. One of them died on the spot and the other died on the same day in the hospital.
7. Learned counsel for the Applicant submitted that the maximum punishment is 3 years. The Appeal is not likely to be heard within that period. There is serious dispute about the identity of the Applicant. P.W.6 Sojarbai Landage who is an important eyewitness, has admitted that she was told by the police to identify the Applicant in the Court.
8. As against these submissions learned APP relied on the deposition of P.W.9 Mahadeo Patil who had stopped the

Applicant's vehicle after the accident and had tried to catch him but he had run away. He did not offer any help to the injured ladies.

9. I have considered these submissions. All these issues will have to be decided during final hearing stage. The sentence imposed on the Applicant is maximum 3 years and the Appeal is not likely to be decided in that period. There is reasonable doubt about evidence of P.W.6 as far as identification of the Applicant is concerned. Therefore considering all these factors the Applicant can be released on bail during pendency and final disposal of the Appeal.

10. Hence, the following order :

ORDER

- (i) During the pendency and final disposal of the Criminal Appeal No.818 of 2022, the sentence imposed on the Applicant is suspended and the Applicant is directed to be released on bail on

his executing P. R. Bond in the sum of Rs.30,000/- (Rupees Thirty Thousand only), with one or two sureties in the like amount.

- (ii) Interim Applications are disposed of accordingly.

(SARANG V. KOTWAL, J.)