

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL INTERIM APPLICATION NO.2719 OF 2021
IN
CRIMINAL APPEAL NO.195 OF 2021

Laxman Hari Patil (Waghmare) : Applicant/Appellant.
Versus
The State of Maharashtra : Respondent.

Mr. Satyavrat Joshi for the Applicant/Appellant.
Mr. Y M Nakhwa, APP for the Respondent/State.

CORAM : S. S. SHINDE,
SARANG V. KOTWAL, JJ
DATE : 26th April 2022

P.C.

1 This is an application filed by the Applicant/Appellant for suspension of sentence imposed upon him and for enlarging him on bail during pendency of the Appeal.

2 The Applicant/Appellant is convicted vide judgment and order dated 29/12/2020 passed by the learned Additional Sessions Judge-1, Islampur for the offences punishable under Section 302 of the Indian Penal Code and sentenced to suffer imprisonment for life.

3 Heard Mr. Satyavrat Joshi, learned counsel appearing for the Applicant/Appellant. He submits that the incident in question has not happened at all and the Applicant/Appellant has been falsely implicated in the

crime. He invites attention of this Court to the evidence of PW-5 Kagabai Hari Patil Waghmare, and submits that the said evidence suffers from omissions inasmuch as though she stated in examination in chief that, the Applicant/Appellant was sitting on the person of Hari Patil (now deceased), however, the said portion has come by omission. In supports of the said contention, he invites attention of this Court to the cross examination of PW-5. He also invites attention of this Court to the medical evidence of Dr. Nikhil Subhash Jagtap (PW-6) and submits that, the nature of injuries described by the medical officer is simple. He further submits that, deceased Hari Patil was suffering from ailments as it is evident from the evidence of PW-5. He, therefore, submits that the substantive sentence of the Applicant/Appellant may be suspended and he may be enlarged on bail during pendency of the Appeal.

4 On the other hand, the learned APP appearing for the Respondent/State invites attention of this Court to the evidence of PW-5, so also evidence of PW-3 and medical evidence and submits that, the evidence of these witnesses coupled with other evidence brought on record by the prosecution clearly indicate that the Applicant/Appellant was the assailant and killed his real father. He, therefore, opposed this application.

5 Upon appreciation of the rival contentions and upon careful

perusal of the evidence of PW-5 so also PW-3 and medical evidence, we are of the opinion that the findings recorded by the Trial Court are in consonance with the evidence brought on record. Upon careful perusal of evidence of PW-5, it is transpired that she has in detail stated the manner in which the incident had happened. Even if the contention of Mr. Satyavrat Joshi, learned counsel for the Applicant/Appellant is accepted that, the part of deposition of PW-5 that the Applicant/Appellant was sitting on the person of deceased Hari Patil, is excluded from consideration, even in that case her evidence is reliable and inspires confidence. It is not necessary to elaborate the reasons since the appeal filed by the Applicant/Appellant is pending for consideration. Suffice it to say that, there is sufficient evidence brought on record by the prosecution which would clearly indicate the involvement of the Applicant/Appellant. No case is made out to entertain the Interim Application. Hence the Interim Application stands rejected.

6 Needless to say that the observations made herein above are prima facie in nature and confined to the adjudication of the present Application. Hearing of the Appeal is expedited. Registry to include the appeal in weekly final hearing list as per its chronology commencing in the month of July 2022.

[SARANG V. KOTWAL, J]

[S. S. SHINDE , J]