

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.157 OF 2022

IN

CRIMINAL APPEAL NO.201 OF 2022

MOULA ABDUL MULLA)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr. Ranjeet Patil, Advocate for the Applicant.

Mrs. M.M.Deshmukh, APP for the Respondent - State.

**CORAM : REVATI MOHITE DERE &
V. G. BISHT, JJ.**

DATE : 7th JUNE 2022

P.C. :

1 Heard learned counsel for the parties.

2 By this interim application, the applicant seeks suspension of his sentence and enlargement of bail, pending the hearing and final disposal of his aforesaid appeal.

3 Mr.Patil, learned counsel for the applicant seeks bail on the ground of parity as well as on merits. He submits that a similarly placed co-accused i.e. Hanmant Ananda Kamble, has been released on bail by this Court (Coram : S.S.Shinde & Sandipkumar C. More, JJ.) vide order dated 21st October 2021, after considering the evidence qua the said co-accused, which is similar to the present applicant. Learned counsel relied on the observations made by this Court in the said order dated 21st October 2021, with respect to last seen evidence and the evidence of P.W.4, P.W.8 and P.W.9. He submits that, infact, the applicant has not been named by either PW4-Nitin More or PW8-Dhananjay Chavan in their evidence. He submits that there is recovery of blood stained weapon at the instance of the applicant and that there was also a recovery of blood stained clothes at the instance of co-accused - Hanmant Ananda Kamble.

4 Learned APP does not dispute that the role of the applicant is similar to that of the co-accused - Hanmant Ananda Kamble,

whose sentence was suspended by this Court.

5 We have perused the order dated 21st October 2021 passed by this Court, by which the sentence of co-accused - Hanmant Ananda Kamble was suspended and he was enlarged on bail. In paragraph 5 of the said order, this Court has considered the evidence of PW4-Nitin More, PW8-Dhananjay Chavan and PW9-Omkar Jadhav and after carefully perusing the said evidence has prima facie found that the finding recorded by the trial Court that the deceased was last seen in the company of the appellant alongwith other co-accused is not in consonance with the evidence of PW4-Nitin More, PW8-Dhananjay Chavan and PW9-Omkar Jadhav. Infact, the evidence on record shows that PW9-Omkar Jadhav had turned hostile. As far as PW4-Nitin More and PW8-Dhananjay Chavan are concerned, both the said witnesses have not named the applicant, as having being last seen in the company of the deceased.

6 There is recovery of a blood stained weapon at the instance of the applicant. There was recovery of blood stained clothes even

at the instance of the co-accused - Hanmant Ananda Kamble. The role of the applicant is similar to that of co-accused - Hanmant Ananda Kamble, whose sentence has been suspended and who is enlarged on bail till the hearing and final disposal of his appeal by this Court.

7 In view of above, we are of the considered opinion that the role of the applicant is similar to that of the co-accused - Hanmant Ananda Kamble and as such, allow the application. Accordingly, we suspend the sentence of the applicant and enlarge him 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.

(V. G. BISHT, J.)

(REVATI MOHITE DERE, J.)