

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.532 OF 2022

IN

CRIMINAL APPEAL NO. 143 OF 2022

GURUDATTA TUKARAM WAGH)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr. Subhash Jha a/w. Mr. Siddharth Jha i/by. Law Global,
Advocates 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 Perused the papers. The applicant is the nephew of the deceased – Pandurang K. Wagh. According to the prosecution, the incident took place on 18th May 2015 in the agricultural field. It is also the prosecution case that the dispute arose between the deceased and the applicant out of a common boundary wall and that in the said quarrel that ensued between the applicant and the deceased, the applicant pulled out a spanner from the tractor and gave a single blow with the said spanner on the deceased's head. The deceased expired on the next day i.e. on 19th May 2015. Learned Counsel for the applicant states that the applicant has been convicted for the offence punishable under Section 302 of the IPC whereas, in the facts, at the highest, the offence, if any, would be a lesser offence. He submitted that the applicant was on bail throughout trial and that he has not misused the liberty granted to him.

4 We have perused the papers. It appears that the applicant gave a single blow with the spanner on the deceased's head. The dispute, prima facie, appears to have been taken place at the spur

of the moment. The deceased was 78 years of age at the relevant time. The appeal has been admitted by a separate order dated 1st April 2022. The applicant was on bail pending the trial and has not misused any of the conditions of bail. The appeal is not likely to be heard in the immediate near future.

5 Considering the aforesaid, the application is allowed and the applicant's sentence is 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 two 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.

6 The application is allowed in the aforesaid terms and is accordingly disposed of.

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

(V. G. BISHT, J.)

(REVATI MOHITE DERE, J.)