

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

**INTERIM APPLICATION NO.905 OF 2020
IN
CRIMINAL APPEAL NO. 758 OF 2017**

Ganesh Raghunath Bhoir ... Applicant
Versus
State of Maharashtra ... Respondent

Mr. Aniket U. Nikam a/w Mr.Amit Icham, for the Applicant.
Mr. K. V. Saste, APP for the Respondent – State.

**CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, JJ.**

DATE : 19th DECEMBER, 2022.

P. C. :

The aforesaid application has been placed before us in view of the order dated 27th September, 2022, passed by the co-ordinate bench i.e. not before Hon'ble Shri. Justice A. S. Gadkari.

2 By the aforesaid Interim Application, the applicant- Ganesh Bhoir seeks suspension of his sentence and enlargement on bail, pending the hearing and final disposal of his aforesaid Appeal i.e. Criminal Appeal No. 758 of 2017.

3 Learned Counsel for the applicant submits that the role of the
applicant is identical to that of Madhukar Bhoir, whose sentence has
been suspended and who is enlarged on bail by this Court vide order
dated 10th October, 2022.

4 Learned APP does not dispute the fact, that the role of the
applicant is similar to that of co-accused Madhukar Bhoir.

5 Perused the papers. The applicant alongwith other co-accused
has been convicted by the learned Additional Sessions Judge, Kalyan
in Sessions Case No. 62 of 2010, vide judgment and order dated 25th
July, 2017, for several offences. The maximum sentence imposed
for the offence punishable under Section 302 r/w Section 149 of the
Indian Penal Code, is life imprisonment.

6 It appears that post the applicant's conviction and sentence,
the applicant preferred the aforesaid Criminal Appeal i.e. Criminal
Appeal No. 758 of 2017 before this Court. Vide order dated
20/09/2017, applicant's Appeal was admitted by this Court. It is
not in dispute that the applicant had initially filed an application

seeking suspension of his sentence and enlargement on bail, however, the said application was withdrawn, as the Court was not inclined to suspend the applicant's sentence and enlarge him on bail. The said order was passed by this Court (Coram: Ranjit More and Surendra P. Tavade, JJ.) on 27th January, 2020. Since both the Judges have retired, we have taken up the aforesaid Interim Application for hearing.

7 The aforesaid application is filed in view of the change of circumstance i.e. grant of bail to co-accused Bhalchandra Bhoir by the Apex Court vide Order dated 13th February, 2020 and the Order passed by this Court on 10th October, 2022, suspending the sentence and enlarging the accused- Madhukar Raghunath Bhoir on bail.

8 From the prosecution case, it appears that co-accused Bhalchandra Bhoir fired a bullet from his revolver on the deceased. The Apex Court while enlarging co-accused Bhalchandra Bhoir and while suspending his sentence observed, that the said accused is in custody more than ten years. On the basis of the order passed by the Apex Court, co-accused Madhukar Bhoir filed an application

seeking suspension of his sentence and enlargement on bail on the ground of parity as well as on the ground of delay in hearing of his Appeal and on the ground that he had also undergone more than ten years in jail.

9 According to the prosecution, co-accused Mahendra, Madhukar and the applicant had held deceased-Samir and had abused him and, that pursuant thereto, co-accused Bhalchandra Bhoir had fired at the deceased from his revolver, pursuant to which, he succumbed to the same. Bhalchandra Bhoir, who fired at the deceased, was enlarged on bail and his sentence was suspended by the Apex Court. On the basis of the order passed by the Apex Court, Madhukar Bhoir was also released on bail. It is not in dispute that the role of the applicant is identical and at par with that of co-accused Madhukar Bhoir. The applicant is in custody for more than ten years.

10 Considering the aforesaid, the Interim Application is allowed and the applicant's sentence is suspended and he is enlarged on bail, pending the hearing and final disposal his Appeal i.e. Criminal

Appeal No. 758 of 2017, on the following terms and conditions.

ORDER

- (i) The Applicant be enlarged on bail on furnishing P. R. Bond in the sum of Rs. 15,000/- with one or two sureties 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 the Appeal is finally disposed of;
- (iii) The Applicant shall keep the trial Court informed of the current address and mobile contact number and/or change of residence of 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.

11 The Interim Application No. 905 of 2020 is allowed in the aforesaid terms and is accordingly disposed of.

12 All concerned to act on the authenticated copy of this Order.

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.

REKHA
PRAKASH
PATIL

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by REKHA
PRAKASH PATIL
Date: 2022.12.23
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