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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 1163 OF 2021
IN
CRIMINAL APPEAL NO. 141 OF 2018

Sachin Mahadev Shirute @ Madde	...Applicant
Versus	
The State of Maharashtra	...Respondent

Ms. Rebecca Gonsalves i/b Dr. Yug Mohit Chaudhary for the Applicant.

Mr. A.R.Kapadnis, A.P.P for the Respondent-State.

CORAM : REVATI MOHITE DERE &
V. G. BISHT, JJ.
DATE : 10th JUNE, 2022

P.C. :

1. Heard learned Counsel for the parties.

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

3. Learned Counsel for the applicant seeks bail on the ground of

parity with co-accused Raju Bhimappa Mali as well as on merits.

4. Learned APP opposes the application.

5. Perused the papers. Admittedly, the prosecution case rests on direct as well as circumstantial evidence. As far as, eye-witnesses are concerned, both the eye-witnesses i.e. PW9 – Avinash Arun Shinde and PW13 – Shobha Mahadev Chande have turned hostile and as such, have not supported the prosecution case. As far as, circumstantial evidence as against the applicant is concerned, there is alleged recovery of blood stained clothes at his instance from a well. The C. A. report shows that the blood group found on the clothes of the accused, recovered at the instance of the applicant is, inconclusive. Even otherwise, none of the witnesses have stated that the clothes recovered, were worn by the applicant and the co-accused. The other circumstance relied upon by the prosecution is seizure of the receipt showing purchase of koyata which was allegedly used in the commission of the offence, from the witnesses PW21 – Bhimgounda Krushna Patil and PW24 – Vijay Devgounda Patil. Both these witnesses have not identified the applicant, as being the person who purchased the said koyata. The said receipt was not seized from the applicant. Admittedly, the koyata which was purchased by the applicant, was not

seized or recovered from the applicant.

6. It also appears that co-accused Raju Bhimappa Mali (original accused No.4) against whom there is recovery of blood stained clothes has been enlarged on bail by this Court vide order dated 20th August, 2019.

7. This being the only material *qua* the applicant, we allow the application and accordingly, suspend the sentence of the applicant and enlarge the applicant 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.20,000/- 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 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 accordingly disposed of.

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

V. G. BISHT, J.

REVATI MOHITE DERE, J.