

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

***INTERIM APPLICATION NO. 1398 OF 2022
IN
CRIMINAL APPEAL NO. 154 OF 2022***

Mahasidha Sidhanna Chougule	...Applicant
Versus	
The State of Maharashtra	...Respondent

Ms. Payoshi Roy i/b Dr. Yug Mohit Chaudhry for the Applicant

Mr. V. B. Konde-Deshmukh, A.P.P for the Respondent–State

***CORAM : REVATI MOHITE DERE &
V. G. BISHT, JJ.
THURSDAY, 16th 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 the aforesaid appeal.

3 The applicant, vide judgment and order dated 23rd November 2017, passed by learned Additional Sessions Judge, Pandharpur, in Sessions Case No. 46/2010, has been convicted along with 6 other accused for the offence punishable under Sections 143, 147, 148, 307 r/w 149 of the Indian Penal Code.

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4 Learned counsel for the applicant seeks bail on the ground of parity. She submits that identically placed co-accused-Mahadeo Balani Chougule's sentence was suspended and he was released on bail by this Court (Coram : Nitin Jamdar & C. V. Bhadang, JJ.) vide order dated 30th August 2021, passed in Criminal Application No. 969/2018 in Criminal Appeal No.1006/2017. Learned counsel relied on the said order which is at Exhibit `D' at page 120 of the application. She further submits that for the offence punishable under Section 307 r/w 149 of the Indian Penal Code, the applicant has been sentenced to suffer RI for 10 years along with fine. She submits that out of the 10 years, the applicant has undergone 4½ years of actual imprisonment.

5 On the last date, learned A.P.P had taken time to take instructions and to peruse the evidence as to whether the role of the applicant was at par with the co-accused Mahadeo Chougule, whose sentence was suspended and who was enlarged on bail. Today, learned A.P.P states that the role of the applicant is identical to the role of co-accused-Mahadeo Chougule.

6 Perused the papers as well as the order dated 30th August 2021 passed by this Court suspending co-accused Mahadeo Chougule's sentence and enlarging him, on bail. It appears that the applicant along with 13 others, were facing trial before the learned Sessions Judge. After a full-fledged trial, out of the 14 accused, 6 accused were convicted by the learned Sessions Judge vide judgment and order dated 23rd November 2017. The applicant has been sentenced to suffer RI for 10 years alongwith fine for the offence punishable under Section 307 r/w 149 of the Indian Penal Code and is sentenced to suffer SI for 2 years for the offence punishable under

Sections 147 and 148 of the Indian Penal Code. This Court, whilst suspending the sentence of co-accused-Mahadeo Chougule vide order dated 30th August 2021 has observed in paras 9 to 11 as under :

“9. We have given our anxious consideration to the circumstances and submissions made and we do find that prima facie the multiple incidents which have happened on 26 March 2010 are broadly the part of the same transaction in which the rival groups were involved. Insofar as the present Applicant is concerned, PW-1 was injured and PW-2 has suffered a grievous injury of loss of palms of both the hands. In the counter case, Siddhanna Chougule who is the uncle of the present Applicant has lost his life. We find that this Appeal being of the year 2017 would take some time to reach the stage of final hearing.

10. On behalf of the Applicant, reliance is placed on the decision of the Supreme Court in Kiran Kumar v/s. State of M.P. (2001) 9 Supreme Court Cases 211 and Bhagwan Ram Shinde Gosai and Ors. v/s. State of Gujarat (1999) 4 Supreme Court Cases 421 in order to submit, that normally in a case where the Appellant/accused is sentenced to imprisonment for a term (as against an imprisonment for life) the Appellant/accused is entitled to be released on bail, unless there are any exceptional reasons, requiring the denial of such relief. He submitted that there are no exceptional reason in the present case.

11. We further find that out of sentence of 10 years, the Applicant has undergone the imprisonment for close to 4 years now.”

7 Learned A.P.P does not dispute that the role of the applicant is similar/identical to that of the said co-accused-Mahadeo Chougule, whose sentence has been suspended and who has been enlarged on bail. The applicant has already undergone imprisonment of about 4½ years, out of the sentence of 10 years. The appeal is admitted by a separate order passed today.

8 Considering the aforesaid, we find that the role of the applicant is identical to the role of the co-accused-Mahadeo Chougule and hence, the applicant is also entitled for suspension of sentence and enlargement on bail. Accordingly, we pass the following order :

ORDER

- i) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two local 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.

9 The application is accordingly disposed of on the aforesaid terms.

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

V. G. BISHT, J.

REVATI MOHITE DERE, J.