

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

***CRIMINAL INTERIM APPLICATION NO.1578 OF 2022
(For Suspension of Sentence and for Bail)
IN
CRIMINAL APPEAL NO.623 OF 2021***

Santosh Ramchandra Lande

...Applicant
(Orig. Accused no.13)

Versus

The State of Maharashtra

...Respondent

Mr. Manoj Mohite, Senior Advocate a/w Mr. Shailesh Chavan, Ilsa Shaikh and Mr. Vishal Khatavkar, for the Applicant/Appellant.

Mr. S. S. Pednekar, A.P.P for the Respondent – State.

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

DATE : 4th JULY 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. The applicant alongwith other co-accused vide Judgment and Order dated 22nd July 2021, passed by learned Additional Sessions Judge & Additional Special Judge under MCOC Act, Pune, in MCOCA Case No. 02 of 2007, has been convicted for the offence punishable under Section 302 of the Indian Penal Code and is sentenced to suffer imprisonment for life and to pay fine of Rs.1,000/- in default, to suffer rigorous imprisonment for six months. The applicant alongwith other co-accused has also been convicted for the offences punishable under Sections 143, 147, 148, 149 and 427 of the Indian Penal Code and was awarded separate sentences for the said offences. All the substantive sentences were directed to run concurrently.

4. The applicant alongwith other co-accused was however acquitted of some of the offences punishable under the Indian Penal Code (I.P.C) and Maharashtra Control of Organized Crime Act (MCOC Act).

5. Perused the papers. It appears that initially 18 accused were charged for various offences, the principal offence being under Section 302 of I.P.C and under the provisions of MCOC Act. During the course of trial, we are informed that 3 accused expired. After a full fledged trial, 12 accused came to be acquitted of all the offences with which they were charged. Only 3 accused (including the applicant) were convicted for the offence as stated aforesaid. As far as the applicant is concerned, it appears that there are 4 relevant eye-witnesses *qua* the applicant. As far as PW12 – Ganesh Godse is concerned, he has stated that he had seen the applicant alongwith other co-accused going on a motorcycle i.e. fleeing from the spot on a motorcycle towards Nal-stop. As far as PW14 - Vikas Mohol is concerned, the said witness has not identified the applicant either in the Test Identification Parade or in the Court. PW24 – Suresh Marne has also not identified the applicant in the Test Identification Parade, however, has identified the applicant in the Court. No specific overt act has been attributed by the said witness to the applicant. As far as PW30 – Prakash Karpe is concerned, he has not identified the

applicant in the Test Identification Parade, however, has identified the applicant in the Court. The said witness has also not attributed any overt act to the applicant. Primarily all the witnesses have attributed a specific role to accused No.1 – Sachin Pote i.e. the said accused fired 6 gunshots at the deceased. No specific role has been attributed to the applicant. It is not in dispute that the applicant is acquitted of the offence punishable under the MCOC Act.

6. Considering the evidence as stated aforesaid, the applicant has made out a case for suspension of his sentence and enlargement on bail. Accordingly, 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.50,000/- with one or two local solvent 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.

7. The Application is allowed in the aforesaid terms and is accordingly disposed of.

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

V. G. BISHT, J.

REVATI MOHITE DERE, J.