

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

***CRIMINAL INTERIM APPLICATION NO.1649 OF 2022
IN
CRIMINAL APPEAL NO.607 OF 2022***

Mahadeo Nagappa Bhairamadgi ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Ashok B. Tajane a/w Ms. Mallika Pujari, for the Applicant.

Ms. P. P. Shinde, 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 vide Judgment and Order dated 11th January 2022, passed by learned Additional Sessions Judge, Solapur

in Sessions Case No. 124 of 2020, has been convicted for the offence punishable under Section 302 of the Indian Penal Code and is sentenced to suffer rigorous imprisonment for life and to pay fine of Rs.2,000/- in default, to undergo further imprisonment for one month.

4. Perused the papers. The prosecution case rests entirely on circumstantial evidence. At the outset, we may note that two of the witnesses examined by the prosecution i.e. PW3 – Virpaksh Bagale and PW5 – Nilamma Bagale have been disbelieved by the learned Judge. The said witnesses were examined on the point of motive. According to the prosecution, the applicant had murdered the deceased – Iranna, as he was suspecting that Iranna was having relations with the applicant's wife. The prosecution has examined PW6 – Laxaman Hangargi and PW9 – Vitthal Bake with respect to last-seen. As far as PW6 – Laxaman is concerned, the said witness has stated that the incident took place one and half year prior to his deposition and that on that day when he was sitting near Hanuman temple at about 10:00

a.m., he saw the applicant and Iranna going on a motorcycle. The said witness has not even mentioned the date on which he had seen the applicant and the deceased. As far as PW9 – Vitthal is concerned, the said witness has stated that on 23rd March 2020 at about 12:00 noon, the applicant and deceased – Iranna, had come to his house; that they had tea with him and thereafter they left. He has stated that at about 1:00 p.m. he heard shouts of Savita, so he went to the spot. He has stated that he saw the applicant leaving the place on his motorcycle and found Iranna lying in the pool of blood in the cattle shed of his brother. Admittedly, Savita has not been examined by the prosecution. There are certain admissions which have come in the cross-examination of the said witness, which *prima facie*, makes his evidence with respect to last-seen doubtful.

5. Considering the evidence on record, 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.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.

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.