

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 2687 OF 2021
IN
CRIMINAL APPEAL NO. 1332 2018

Pradeep Shamlal Mourya.

..Applicant.

Versus

The State of Maharashtra.

..Respondent.

Mr. Fakhruddin Khan and Ms. Saima Ansari for the Applicant.

Mr. V. B. Konde-Deshmukh for the Respondent-State.

CORAM : PRASANNA B. VARALE &
N. R. BORKAR, JJ.

Date : September 30, 2022.

P. C. :

1. Heard learned counsel appearing on behalf of the Applicant.

By way of present application, the applicant-appellant has prayed for his enlargement on bail pending appeal.

2. Learned counsel for the Applicant vehemently submitted that the entire case of prosecution rests on circumstantial evidence, particularly on the extra-judicial confession of Applicant to his friend, and this is a weak piece of evidence; the testimony of the said witnesses to whom the alleged confession was made cannot be implicitly relied as there are many contradictions and omissions. Learned counsel further submitted that there

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is no convincing evidence in relation to alleged motive.

3. Learned counsel for the Applicant also submitted that the Applicant is in jail for more than 8 years and during this period, he lost his father and now in his family, only mother is there to whom a support is required. It is further submitted that the extra-judicial confession discloses that the Applicant was under the influence of liquor and the possibility of committing the alleged crime under the influence of liquor cannot be totally ruled out.

4. Learned counsel then submitted that the Applicant at the relevant time was supporting his family by assisting the family in flower business. It is submitted that due to poor financial condition, the Applicant had to leave his studies mid-way to assist his family members in the business; however his desire to study did not die down and while in prison, the Applicant has successfully completed distance education programme “BPP”, which is equivalent to “Higher Secondary Examination”, from Indira Gandhi National University, New Delhi. He further submitted that the Applicant at the relevant time was a young boy of 18 to 19 years and assuming that he has committed the alleged crime, he appears to have committed in heat of passion.

5. Learned counsel further submitted that the hearing of appeal would take considerable time and keeping the Applicant in jail for further indefinite period would serve no purpose, and on the contrary if the Applicant is released on bail, the Applicant may provide necessary assistance to the only member in his family, i.e., mother.

6. Learned APP Mr. Konde-Deshmukh opposed the application. He submitted that on a petty ground of denial of money, the Applicant committed murder of his own aunt.

7. Considering the fact that the case of prosecution is based on circumstantial evidence and the Applicant is in jail for more than 8 years, we are inclined to release him on bail. Hence, the application is allowed in the following terms :

- (i) The Applicant – Pradeep Shamlal Mourya be released on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.
- (ii) The Applicant shall attend Sakinaka Police Station once in a month, i.e., on first Monday of each month between 11.00 a.m. to 2.00 p.m.

[N. R. Borkar, J.]

[Prasanna B. Varale, J.]