

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

**INTERIM APPLICATION NO. 1584 OF 2019
IN
CRIMINAL APPEAL NO. 1687 OF 2019**

Krushnarao @ Ramkrushna Sidram
Suryawanshi ...Applicant/Appellant
Versus
The State Of Maharashtra ...Respondent

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Ms. Vilasini B. i/by Mr. Jaydeep D. Mane, Advocate for the
Applicant/Appellant

Mr. S. V. Gavand, APP for the Respondent – State.

CORAM : PRAKASH D. NAIK, J.
DATE : 31st MARCH, 2022.

PER COURT:

1. This is an application for suspension of sentence and grant of bail. The applicant is convicted vide judgment and order dated 15th November, 2019 for offence punishable under Section 304 (ii) of Indian Penal Code (for short “IPC”) and sentenced to suffer rigorous imprisonment of seven years and to pay fine of Rs.5000/-.

2. The case of the prosecution is that the field of accused is adjacent to the field of the deceased. There were disputes amongst both the sides with regards to the property. There were frequent quarrels. On 23rd March, 2015, the labourers of the

accused were passing through the field of Vilas and therefore he objected to it. During the course of quarrel between the deceased and the accused, the stone lying at the place of incident was picked up by accused and the victim was hit on his head which has resulted in his death. The applicant has been acquitted for offence under Section 302 of IPC and convicted for offence under Section 304(ii).

3. Learned counsel for the applicant submitted that the applicant was on bail during the trial. However, considering the period of custody during the trial, after the judgment of conviction the applicant has undergone the sentence of about three years. There is no adverse report about the misuse of facility of bail granted to the applicant.

4. Learned APP submitted that nature of injuries suffered by the victim are required to be considered. The defence of the accused that there was grave and sudden provocation has been disbelieved by the trial court.

5. Considering the evidence on record, the fact that the applicant was on bail during trial and he has already undergone sentence of three years, the case for suspension of sentence and grant of bail is made out.

6. Hence, I pass the following order:

ORDER

- i. Interim Application No. 1584 of 2019 is allowed;
- ii. During the pendency of Criminal Appeal No.1687 of 2021, the sentence of imprisonment imposed vide Judgment and order dated 15th November, 2019 passed by learned Extra Joint Additional Sessions Judge, Barshi in Sessions Case No.49 of 2015 is suspended and the applicant is directed to be released on bail on executing PR. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- iii. The applicant is permitted to furnish cash bail in the sum of Rs.25,000/- for a period of ten weeks in lieu of surety.
- iv. The applicant shall attend the trial Court once in six months on first Saturday of the month till the final disposal of the appeal;
- v. In the event, there are two consecutive defaults in attending the trial Court, the said fact may be brought to the notice of this Court and in such eventuality, the prosecution will be at liberty to prefer an application for cancellation of bail.
- vi. Interim Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)