

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

***CRIMINAL INTERIM APPLICATION NO.890 OF 2019
IN
CRIMINAL APPEAL NO.1449 OF 2019***

Tushar Bapurao Gaikwad

...Applicant

Versus

The State of Maharashtra and Ors.

...Respondents

Mr. Shriraj Ramesh Wakale, i/b Mr. Ganesh N. Kumkar, for the Applicant.

Ms. P. P. Shinde, A.P.P for the Respondent No.1– State.

Mr. S. R. Phanse, Appointed Advocate for the Respondent Nos.2 to 7.

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

DATE : 23rd JUNE 2022

P.C. :

1. Heard learned counsel for the parties.
2. By this interim 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 7th September 2019 passed by learned Additional Sessions Judge, Solapur, in Sessions Case No.220 of 2017, 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.50,000/- in default, to undergo further rigorous imprisonment for two years. Out of the fine amount, Rs.20,000/- was directed to be given to the parents and Rs.20,000/- was directed to be given to the wife and children of the deceased, as compensation under Section 357(1) of the Code of Criminal Procedure.

4. Perused the papers. The only evidence as against the applicant is a disclosure made by the deceased – Danial to his wife - Mangal Kharat, when she called him on his phone, that the applicant was present with him, at Nanded. The dead body of the deceased was found at Mohol, Solapur. According to the prosecution, the CDR shows that the deceased and the applicant were together at Nanded, at the relevant time, when the wife of the deceased called him. Apart

from the said material, there is no other material to connect the applicant with the alleged offence for which he is convicted. The applicant is in custody since 4th May 2017. The appeal has been admitted by this Court vide order dated 13th January 2020 and the same is not likely to come up for hearing in the immediate near future.

5. Considering the aforesaid, the application is allowed and the applicant's sentence is suspended and he is enlarged on bail, pending the hearing and final disposal of the aforesaid appeal, on the following terms and conditions :-

ORDER

- i) The applicant be released on bail on furnishing P.R.Bond in the sum of Rs.10,000/- with one or two sureties in the like amount;
- ii) The applicant shall report to the trial Court, once in six 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 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 disposed of on the aforesaid terms.

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

V. G. BISHT, J.

REVATI MOHITE DERE, J.