



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

**INTERIM APPLICATION NO. 603 OF 2023
IN
CRIMINAL APPEAL NO. 952 OF 2022**

Shivanand Mahadeo Dindore

.... Applicant

v/s.

The State of Maharashtra and anr.

.... Respondents

Mr. Aniket Nikam a/w. Mr. Amit Icham for the Appellant
in APEAL/951/2022, APEAL/952/2022 and APEAL/938/2022.

Ms. Vaishali Maindad a/w. Ms. Shaheen Kapadia
for the Appellant in APEAL/950/2022.

Ms. M.M. Deshmukh, APP for the State.

Mr. Priyal Sarda for Respondent No.2.

**CORAM: SMT. ANUJA PRABHUDESSAI AND
N.R. BORKAR, JJ.**

DATED : 25th SEPTEMBER, 2023.

P. C. :-

. By this application filed under section 389(1) of Cr.P.C., the Applicant (accused no.4) seeks suspension of sentence and bail pending appeal against conviction vide judgment dated 22/08/2022 in Sessions Case No.218/2017.

2. The case of the prosecution in brief is that on 19/03/2017, while the deceased – Mallikarjun and his family members were in their field, the Applicant and others came to the place of the incident armed with gun, sickle, revolver, axe, etc. The Applicant and others abused and

threatened the deceased – Mallikarjun and his family members while Bappu Dindore (accused no.1) fired a gunshot and caused death of Mallikarjun. The learned Judge after considering the evidence on record, held the Applicant and others guilty of an offence under section 302 r/w. 34 of the IPC and sentenced them to undergo imprisonment for life.

3. Mr. Aniket Nikam, learned counsel for the Applicant in Criminal Appeal No.952/2022 states that the accused no.2 – Basavraj Dindore has been granted bail by this Court vide order dated 18/01/2023 passed in Interim Application No.3191/2022 in Criminal Appeal No.951/2022 and accused no.3 – Siddharam Dindore has been granted bail by this Court vide order dated 23/08/2023 passed in Interim Application No.829/2023 in Criminal Appeal No.938/2022. He states that the Applicant who is similarly placed, is also entitled for bail on the ground of parity.

4. Per contra, Ms. Deshmukh, learned APP as well as Mr. Priyal Sarda, learned counsel for the Respondent No.2/first informant states that the gun which was used by Bappu Dindore (accused no.1 - father of the Applicant) in committing murder of the deceased – Mallikarjun,

is owned by this Applicant. It is contended that the role attributed to this applicant is not similar to the role attributed to the accused nos.2 and 3 who have been released on bail.

5. We have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

6. The records reveal that the deceased – Mallikarjun and the Applicant and the other co-accused are related to each other. There is a civil dispute between the parties. It is alleged that the Applicant and the co-accused instigated Baghirathi, the sister of the deceased – Mallikarjun to demand share in the property. The case of the prosecution is that on 19/03/2017, the first informant Madhukar Dhindore, the deceased – Mallikarjun and others were doing agricultural work. At about 02:00 p.m., the Applicant and the co-accused came to the field armed with weapons. They abused and threatened the first informant and others. It is alleged that Bappu (accused no.1), the father of the present Applicant fired gunshot and committed murder of Mallikarjun.

7. It is contended that the weapon of offence viz. the gun is

registered in the name of this Applicant. However, there is no material to show that he had handed over the same to his father i.e., the accused no.1 so as to commit murder of deceased – Mallikarjun. Though the offence is of serious nature, no overtact has been attributed to this Applicant.

8. Considering the above facts and circumstances and the fact that the accused nos.2 and 3 who are similarly placed, have been released on bail, in our considered view, the Applicant is entitled for bail on the ground of parity. Furthermore, it is stated that the Applicant was on bail during pendency of the trial and he has not violated the terms and conditions of the bail. In such circumstances, the Application is allowed on the following terms and conditions :-

(a) Execution of sentence imposed against the Applicant – Shivanand Dindore vide judgment dated 22/08/2022 passed by the learned Additional Sessions Judge, Solapur, in Sessions Case No.218/2017 is suspended pending hearing of the Appeal ;

(b) The Applicant shall be released on bail on furnishing P.R. Bonds in the sum of Rs.25,000/- with one or two

solvent sureties in the like amount to the satisfaction of the Trial Court ;

(c) The Applicant shall keep the Trial Court informed of his current address and mobile/contact numbers and/or change of residence or mobile details, if any, from time to time ;

9. Interim Application stands disposed of.

(N.R. BORKAR, J.)

(SMT. ANUJA PRABHUDESSAI, J.)