

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****INTERIM APPLICATION NO. 3256 OF 2023****IN****CRIMINAL APPEAL NO. 812 OF 2017**

Laxman Namdev Bhosale

.....Applicant

Vs.

The State of Maharashtra

.....Respondent

Mr. Daulat Khamkar for the Applicant.

Ms. Mahalakshmi Ganpathy APP, for the Respondent-State.

**CORAM : A. S. GADKARI AND
MILIND N. JADHAV, JJ.****DATE : 5th DECEMBER, 2023.****P.C.:-**

- 1) This is a successive Application for suspension of sentence and releasing the Applicant on bail.
- 2) The earlier Bail Application bearing No.714 of 2022 preferred by the Applicant was dismissed as withdrawn by an Order dated 21st September, 2022 as after hearing the learned Advocate for the Applicant at length, this Court was not inclined to grant any relief.
- 3) Heard Mr. Khamkar, learned Advocate for the Applicant and Ms. Ganpathy, learned APP for the Respondent-State. Perused record.
- 4) Applicant is convicted under Section 302 of the Indian Penal Code and is sentenced to suffer imprisonment for life and to pay fine of Rs.2 lacs, in default, to suffer further rigorous imprisonment for six months

by the learned Additional Sessions Judge-5, Solapur in Sessions Case No.204 of 2016.

5) Mr. Khamkar, learned Advocate for the Applicant submitted that, there are material contradictions in the evidence of PW No.3 Vikas Pawar and PW No.1 Dayanad Shinde. According to him, PW No.3 has mentioned about the presence of Anil Ashtul (PW-2), PW No.2 has not referred to the presence of PW No.3 at the scene of offence. It therefore creates doubt in the mind about the presence of PW No.3 i.e. Vikas Pawar. There are material omissions in the evidence of PW No.3. He next submitted that, the Applicant is behind bars for about 7 years and 8 months and therefore he may be released on bail.

6) Perusal of evidence of material witnesses and in particular PW No.3 clearly discloses that, initially the Applicant was with deceased Kiran Ashtul and subsequently all of a sudden started beating him. Applicant took out a knife concealed in his pocket and gave blows of it on the neck and hand of Kiran Ashtul. Applicant gave 2-3 blows of knife and thereafter fled away from the scene of offence. The weapon used in the crime is recovered from the Appellant. The blood stained clothes of the Applicant were seized by the investigating agency. The Forensic Science Laboratory reports of the blood stains *prima facie* corroborates existence of human blood on the knife and clothes seized from the Applicant. Apart from ocular evidence of PW No.3, there is other corroborative material to show

indictment of the Applicant in the present crime. It appears that, the trial Court after assessing entire record, convicted and sentenced the Appellant under Section 302 of the IPC.

7) According to us except passage of time, there is no substantive change in the circumstances which were prevailing on 21st September, 2023, when we dismissed the earlier Application of the Applicant, as withdrawn.

8) According to us, placing of reliance by the learned Advocate for the Applicant on the decision of the Hon'ble Supreme Court in the case of *Saudan Singh Vs. State of Uttar Pradesh reported in 2022(2) Crimes 21 (SC)* is of no avail to him, as the facts mentioned in the said decision totally differ from the facts in the present case.

9) In view of the above, we are not inclined to release the Applicant on bail.

10) Application is accordingly dismissed.

11) As the Applicant is behind bars for more than 7 years and 8 months, the hearing of the Appeal preferred by the Applicant is expedited.

(MILIND N. JADHAV, J.)

(A.S. GADKARI, J.)

SANJIV
SHARNAPPA
MASHALKAR

Digitally signed
by SANJIV
SHARNAPPA
MASHALKAR
Date: 2023.12.11
19:26:10 +0530