

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

**INTERIM APPLICATION NO. 2949 OF 2021
IN
CRIMINAL APPEAL NO. 206 OF 2020**

Suresh Bhauso Patil	... Applicant
Versus	
The State of Maharashtra	... Respondent

Ms. Madhavi M. Tavanandi, for the Applicant.
Smt. G. P. Mulekar, APP for the Respondent – State.

**CORAM : NITIN W. SAMBRE &
R. N. LADDHA, JJ**

DATED : 17th JANUARY, 2023

P.C.:

1. This an application u/s. 389(1) of Cr.PC by convicted accused. The genesis of the offence is, the applicant by use of firearm murdered Pandurang Desai.
2. Learned counsel for the applicant submits that pursuant to liberty granted by Hon'ble Apex Court on 17/11/2020 as appeal was not heard within a period of one year, the present application came to be moved. She would urge that this Court during pendency of the trial vide order dated 07/05/2009 delivered in Criminal Application No. 1499 of 2009 has ordered release of the applicant on regular bail. Since the applicant was on bail during the Trial, the applicant deserves similar treatment.

3. The further contentions of learned counsel for the applicant are, testimonies of P.W. Nos. 4, 5 and 7 who are eye witnesses to the incident do not repose confidence in the prosecution theory. According to her, the applicant is inside jail for a period of more than one year and that being so he is required to be released as he is very much available to prosecuting the appeal.

4. Learned APP would oppose the prayer based on the testimonies of eye witnesses.

5. We have considered the cumulative effect of the testimonies of PW No. 4-Tanaji who is examined at Exhibit - 40/C, testimony of P.W. No. 5-Shahaji who is examined at Exhibit-42/C so also P.W. No. 7-Dnyandeo who is examined at Exhibit 44/C. All these three eye witnesses in categorical terms speaks of serious role played by the applicant in the commission of the offence. All the three witnesses have stated that the applicant was armed with firearm from which he fired at deceased-Pandurang. The evidence of P.W. 10 - Dr. Reshma speaks of the deceased - Pandurang suffered multiple pellets injuries. The above referred evidence of eye witnesses is corroborated with the evidence of doctor.

6. In view of above, the direct involvement of the applicant in the offence punishable with life imprisonment can be inferred.

7. In view of above evidence, the judgment of the Trial Court to the extent of granting life imprisonment appears to be quite justified as there is strong case against the applicant.

8. No case for suspension of the sentence and bail is made out. The application stands rejected.

(R. N. LADDHA, J)

(NITIN W. SAMBRE, J.)