

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.3488 OF 2022
IN
CRI.APPEAL NO.1028 OF 2018

Sachin Namdev Gaikwad ... Applicant.
Versus
The State of Maharashtra ... Respondent.

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Ms Madhavi Gomathieswaran, Advocate i/b Dr. Yug Chaudhary,
for the appellant.

Smt.GP Mulekar, APP for the Respondent-State.

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CORAM: NITIN W. SAMBRE AND
R. N. LADDHA, JJ.

DATE : 7th FEBRUARY, 2023.

P.C. :-

. Applicant came to be convicted for the offence punishable under Section 302 of the Indian Penal Code and is sentenced to undergo rigorous imprisonment for life.

2. Relying on the order of the Apex Court, in *Suleman Vs. The State of Uttar Pradesh, in Miscellaneous Application No. 764 of 2022, in Criminal Appeal No.491 of 2022*, a prayer is made for

release of the Applicant, he having already completed 10 years of his conviction. Learned Counsel for the Applicant has also relied on the fact that the Appellant, as on date, has completed 11 years and 10 months of conviction which includes remission of 3 years and 1 month.

3. Apart from above, bail is also sought on merits of the matter, as it is claimed that there are no eyewitnesses to the incident and the Applicant/Appellant himself after noticing body of the deceased in his Salon has reported the matter to the police.

4. Learned APP submits that the Applicant pursuant to the conviction, has undergone only 5 years and 9 months of actual sentence whereas at pre-trial stage, he was in jail for 2 years and 11 months and remission of 3 years and one month is granted. As such, according to her, the Appellant does not satisfy the condition, as mentioned in the Judgment of *Suleman (supra)*. Apart from above, even on merits, learned APP submits that there is strong and sufficient evidence to infer involvement of the Applicant in the crime and which is formed to be the basis of award of conviction.

5. We have appreciated the submissions.

6. We have gone through the evidence with assistance of respective counsel and on merits we are convinced that there is strong evidence available against the Applicant, warranting not to exercise discretion as provided under Section 389(1) of Cr.P.C. in favour of the Applicant/Appellant particularly, having regard to the testimony of witnesses who has seen the deceased being in the company of the Appellant, lastly.

7. Apart from above, recovery of weapon, blood stained clothes, sufficiently connects the Appellant, in the crime in question. The deceased/Doctor was murdered by the Appellant/Barber in his Salon within 3 days of the marriage of the deceased. Motive attributed to the Appellant is that of injecting HIV virus by the deceased in the body of the Appellant, in the matter of extending medical treatment, because of which the Appellant wanted to take revenge on the deceased.

8. As far as, reliance placed on the judgment in the matter of *Suleman (supra)* is concerned, this court considering the fact that detailed arguments were canvassed, was inclined to take up the appeal for final hearing, however, learned Counsel for the Appellant, on instructions, informed that instructions are only to argue the application and not the appeal.

9. In view of above, the Application stands rejected.

[R. N. LADDHA, J.]

[NITIN W. SAMBRE, J.]