

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

***INTERIM APPLICATION NO.3671 OF 2022
IN
CRIMINAL APPEAL NO.80 OF 2013***

Lally @Raviraj Suresh Lengare

...Applicant
(Orig. Accused No.5)

Versus

The State of Maharashtra and Anr.

...Respondents

Mr. Nitin Gaware Patil, for the Applicant.

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

***CORAM : REVATI MOHITE DERE &
GAURI GODSE, JJ.***

DATE : 6th OCTOBER 2023

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the applicant (original accused No.5) seeks suspension of his sentence and enlargement on bail, pending the hearing and final disposal of the aforesaid appeal.

3. The applicant alongwith other co-accused vide judgment and order dated 20th November 2012 passed by the learned Additional Sessions Judge, Solapur in Session Case No. 276 of 2008 has been convicted as under:

— for the offence punishable u/s. 364 r/w. Section 34 of the Indian Penal Code, to suffer rigorous imprisonment for five years and to pay fine of Rs.1,000/- each, in default, to suffer simple imprisonment for six months;

— for the offence punishable u/s. 365 r/w. Section 34 of the Indian Penal Code, to suffer rigorous imprisonment for three years and to pay fine of Rs.1,000/- each, in default, to suffer simple imprisonment for three months;

— for the offence punishable u/s. 302 r/w. Section 34 of the Indian Penal Code, to suffer imprisonment for life and to pay fine of Rs.5,000/- each, in default, to suffer simple imprisonment for one year;

— for the offence punishable u/s. 342 r/w. Section 34 of the Indian Penal Code, to suffer rigorous imprisonment for six months and to

pay fine of Rs.500/- each, in default, to suffer simple imprisonment for 15 days;

— for the offence punishable u/s. 384 r/w. Section 34 of the Indian Penal Code, to suffer rigorous imprisonment for one year and to pay fine of Rs.1,000/- each, in default, to suffer simple imprisonment for three months;

— for the offence punishable u/s. 201 r/w. Section 34 of the Indian Penal Code, to suffer rigorous imprisonment for two years and to pay fine of Rs.1,000/- each, in default, to suffer simple imprisonment for six months.

All the aforesaid sentences were directed to run concurrently.

After deposit of fine amount by accused persons, an amount of Rs.25,000/- was directed to be paid to the complainant as compensation under Section 357 of the Code of Criminal Procedure.

4. Learned Counsel for the applicant submits that the prosecution case rests entirely on circumstantial evidence. He submits that the only circumstance as against the applicant, is that he made a

number of calls to the accused No.1, one day prior to the incident and on the day of the incident. He submits that apart from the said evidence, there is no other material/evidence to connect the applicant with the alleged offences.

5. Learned APP does not dispute the said fact. No other circumstance is pointed out by the learned APP apart from the aforesaid. It is also not disputed that the applicant is in custody for the last 15 years.

6. Considering that the only circumstance as against the applicant is the number of calls made by the applicant to the accused No.1, one day prior to the incident and on the day of the incident and having regard to the fact that the applicant is incarcerated for the last 15 years, the application deserves to be allowed.

7. Accordingly, the application is allowed and the applicant's sentence is suspended and he is enlarged on bail, pending the hearing

and final disposal of his aforesaid appeal, on the following terms and conditions :-

ORDER

- i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount;
- ii) The Applicant shall report to the trial Court, once in four 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 his 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.

8. Interim Application is allowed in the aforesaid terms and accordingly disposed.

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

GAURI GODSE, J.

REVATI MOHITE DERE, J.