

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

**INTERIM APPLICATION NO.583 OF 2022
IN
CRIMINAL APPEAL NO.168 OF 2022**

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Lokendra Bhagirath Singh Rathod
alias Payal alias Luckky Sagar Verma ..Applicant/Appellant
Versus
The State of Maharashtra & Anr. ..Respondents

Mr. Aniket Nikam, for the Applicant/Appellant.
Smt. M. M. Deshmukh, APP for the Respondent No.1/State.
Ms. Rebeca Gonsalves, for the Respondent No.2.

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

DATE : 10th JANUARY, 2023

PC.

1. The respondent No.2 i.e. legal heir of the deceased is not served. Perused the affidavit of the police inspector (crime) on the issue of effecting service on the said respondent. This Court is satisfied about the efforts taken by the respondent No.1 in trying to effect service on respondent No.2. In view of the contents of the affidavit, it is deemed that the service on the respondent No.2 is complete.

2. The applicant/accused No.1 has taken out proceedings under Section 389 of the CrPC having been convicted for an offence

punishable under Section 302 r/w 34 of IPC and is sentenced to life imprisonment. The applicant/accused is in custody since 7th January, 2016. The date of incident is 4th January, 2016 for which FIR came to be lodged on 6th January, 2016.

3. The applicant, a transgender along with two other co-accused alleged to have murdered the deceased by fist and kick blows.

4. The applicant has suffered incarceration for a period of seven years. Considering the alleged motive, the nature of offence available on the record and mode and manner of commission of crime without use of weapon, in our opinion, the applicant deserves to be released on bail.

5. It is not in dispute that the deceased Manda Rajumani Kale died homicidal death because of injury to abdomen and small intestines. The prosecution case entirely rests on the evidence of PW-2, 4, 5 and 6, so also CCTV footages. *Prima-facie* this Court is of the view that the motive on the part of the accused cannot be inferred to have been established in clear terms.

6. As such, the application stands allowed. The sentence is suspended. The applicant is directed to be released on bail on furnishing PR bond of Rs.25,000/- with one or two local sureties in the like amount.

7. Applicant shall report to the respondent police station on every fortnight i.e. on 1st and 16th of every English calendar month till the decision of appeal.

8. Applicant shall not try to contact the witnesses or issue threats.

[R. N. LADDHA, J.]

[NITIN W. SAMBRE, J.]