



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 1102 OF 2023
IN
CRIMINAL APPEAL NO.336 OF 2023**

Vitthal Tukaram Chavan

...Applicant

Versus

State of Maharashtra

...Respondent

Mr. Aniket U. Nikam for the Applicant.

Mr. V. B. Konde Deshmukh, APP for the State.

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

DATE : 22nd AUGUST 2023

P. C. :

1. Heard learned counsel for the parties.
2. By this application, the applicant seeks suspension of his sentence and enlargement on bail, pending the hearing and final disposal of his aforesaid appeal.
3. The applicant vide judgment and order dated 17th January 2023 passed by the Additional Sessions Judge, Pune in Sessions Case No. 1056 of 2016 has been convicted as under :

— for the offence punishable u/s. 302 of the Indian Penal Code, to suffer rigorous imprisonment for life and to pay fine of Rs.3,00,000/-, in default, to suffer simple imprisonment for one year.

— for the offence punishable u/s. 201 of the Indian Penal Code, to suffer rigorous imprisonment for three years and pay fine of Rs.25,000/-, in default, to suffer simple imprisonment for three years;

Both the sentences were directed to run concurrently.

4. Perused the papers. The prosecution case rests entirely on circumstantial evidence. It is alleged by the prosecution that a burnt Wagon-R Car was found close to the dead body of Vinayak Talekar on 24th August 2016. It is the prosecution case that PW-3 Vinod Chudasama had delivered the car at the request of the applicant at the car centre on 21st August 2016. The said car was found in a burnt condition on 24th August 2016 and close to the burnt Wagon-R car a dead body was found which was identified as being of Vinayak Talekar.

5. As far as recovery of weapon with which the applicant assaulted the deceased is concerned, the panch witness for the said memorandum has admittedly not been examined by the prosecution.

6. As far as CCTV footage which was collected, it appears that when the CCTV footage was played it was found to blank and as such nothing was found in the said CCTV footage.

7. It also appears that the learned Judge did not rely on the CDR which was produced by the prosecution as no section 65B Certificate was produced alongwith the said CDR. The applicant is in custody since 24th November 2016 for almost about seven years. Appeal is of the year 2023 and as such is not likely to reach in the immediate near future.

8. Considering the evidence on record, 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 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 three months on the day/date specified by the trial Court, till the 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.

9. 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.