



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

**INTERIM APPLICATION NO. 1014 OF 2023
IN
CRIMINAL APPEAL NO. 72 OF 2020**

Rahul Deoram Gotarne

.... Applicant

v/s.

The State of Maharashtra

.... Respondent

Mr. Nitin Sejpal a/w. Ms. Pooja Sejpal, Ms. Akshata Desai and
Ms. Sakshi Jha for the Appellant/Applicant.
Mr. Ajay Patil, APP for the State.

**CORAM: SMT. ANUJA PRABHUDESSAI AND
N.R. BORKAR, JJ.**

DATED : 25th SEPTEMBER, 2023.

P. C. :-

. By this application filed under section 389(1) of Cr.P.C., the Applicant seeks suspension of sentence and bail pending appeal against conviction vide judgment dated 20/12/2019 in Sessions Case No.244/2017.

2. The case of the prosecution in brief is that on 20/01/2017, at about 09:15 p.m., the Applicant and others with common intention committed murder of Surendra Shejwal. The learned Judge after considering the evidence on record particularly the evidence of PW12 and other circumstantial evidence held the Applicant and others guilty

of the offence under section 302 r/w. 34 of the Indian Penal Code and sentenced them to undergo imprisonment for life.

3. Mr. Sejpai, learned counsel for the Applicant submits that by order dated 20/02/2023, the Co-ordinate Bench of this Court has released the co-accused nos.2 and 4 (Shekhar Ahire and Rama Chavan) on bail. He submits that the Applicant, who is identically placed, is also entitled for bail on the principle of parity.

4. The records reveal that PW1 (Vikram Porje) and PW17 (Santosh Pille) have not supported the case of the prosecution. PW12 has deposed that the Applicant and the co-accused assaulted the deceased with weapons. He has attributed common role to this Applicant as well as the co-accused who have already been released on bail. While releasing the co-accused on bail, this Court observed the recovery effected by the Investigating Agency from all the accused from the same place has lost its significance for non-compliance with the mandatory requirement of Section 27 of the Evidence Act.

5. The co-accused who were similarly placed having been granted bail, the Applicant is also entitled for bail on the ground of parity.

Hence, the Interim Application is allowed on the following terms and conditions :-

(a) Execution of sentence imposed against the Applicant vide judgment dated 20/12/2019 in Sessions Case No.244/2017, is suspended pending hearing of the Appeal ;

(b) The Applicant shall be released on bail on furnishing P.R. Bonds in the sum of Rs.25,000/- with one or two solvent sureties in the like amount to the satisfaction of the Trial Court ;

(c) The Applicant shall remain present before this Court as and when directed ;

(d) The Applicant shall keep the Trial Court informed of his current address and mobile/contact numbers and/or change of residence or mobile details, if any, from time to time ;

6. Interim Application stands disposed of.

(N.R. BORKAR, J.)

(SMT. ANUJA PRABHUDESSAI, J.)