

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

***CRIMINAL INTERIM APPLICATION NO.1218 OF 2023
IN
CRIMINAL APPEAL NO.374 OF 2023***

Avanish Dilip Jaiswal

...Applicant
(Original Accused No.2)

Versus

The State of Maharashtra

...Respondent

Mr. S. T. Pandey a/w Mr. Arvind Singh, Ms. Anima Mishra,
Ms. Angela Singha and Ms. Kajal Upadhyay, i/b SBG Law, for the
Applicant.

Mr. S. S. Pednekar, A.P.P for the Respondent – State.

***CORAM : REVATI MOHITE DERE &
SHARMILA U. DESHMUKH, JJ.***

DATE : 17th APRIL 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 the aforesaid appeal.

3. The applicant alongwith other co-accused, vide Judgment and Order dated 2nd March 2023, passed by learned Additional Sessions Judge, Thane in Sessions Case No. 208 of 2017, has been convicted and sentenced as under:-

- for the offence punishable under Section 302 r/w 34 of the Indian Penal Code, to suffer life imprisonment and to pay fine of Rs.1,000/- each, in default, to suffer rigorous imprisonment for 1 month.

4. According to the prosecution and the evidence that has come on record, the applicant was unknown to deceased – Vikas. It is alleged that in the incident, the applicant assaulted the deceased with fist and kick blows. The evidence of PW2 -Dr. Bandopant Deshmukh shows that no contusion, abrasion or CLW was found on the person of the deceased to show that he was assaulted by fist and kick blows. Admittedly, the applicant is not the person, who is alleged to have assaulted the deceased with a knife. The applicant was on bail pending trial and has not misused or abused the liberty granted to

him. The appeal of the applicant has been admitted by this Court vide order dated 3rd April 2023.

5. Considering the nature of evidence against the applicant, his role in the incident and the fact that the applicant was on bail pending trial, the application is allowed and the applicant's sentence is suspended and he is enlarged on bail, pending the hearing and final disposal of the 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.15,000/- 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.

6. The Application is allowed in the aforesaid terms and is accordingly disposed of.

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

SHARMILA U. DESHMUKH, J.

REVATI MOHITE DERE, J.