



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 1332 OF 2021
IN
CRIMINAL APPEAL NO. 414 OF 2021

Sunil Ankush Kamble

...Applicant

Versus

The State of Maharashtra & Anr.

...Respondents

Mr. Aniket Vagal a/w Mr. Kunal Pednekar & Mr. Divesh Mehani, for
the Applicant.

Mr. V.B.Konde Deshmukh, A.P.P for the Respondent-State.

**CORAM : REVATI MOHITE DERE &
GAURI GODSE, JJ.**
DATE : 11th SEPTEMBER, 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 14th September, 2020, passed by learned Additional Sessions Judge, Mangaon-Raigad in Sessions Case No. 01 of 2019, alongwith another co-accused, has been convicted as under:-

- for the offence punishable under Section 302 r/w 34 of the Indian Penal Code, to suffer life imprisonment and to pay a fine of Rs.50,000/- each, in default, to suffer further rigorous imprisonment for 2 years;
- for the offence punishable under Section 397 r/w 34 of the Indian Penal Code, to suffer rigorous imprisonment for 7 years;
- for the offence punishable under Section 201 r/w 34 of the Indian Penal Code, to suffer rigorous imprisonment for 3 years and to pay a fine of Rs.10,000/- each, in default, to suffer further rigorous imprisonment for 1 year;

All the sentences were directed to run concurrently.

4. Perused the papers. The prosecution case entirely rests on

the circumstantial evidence. According to PW-1 – Sandip More, father of deceased – Jagrut, the incident took place on 26th September, 2018. He has alleged that he had learnt that his son – Jagrut had gone with Satish More (co-accused). On 27th September, 2018, the dead body of Jagrut was found. Prior to the said dead body being found, PW-1 – Sandip More had lodged a missing complaint with the Roha Police Station, expressing his suspicion on the applicant and co-accused – Satish More. As far as the applicant is concerned, it is stated by PW-3 – Suraj Shambhunath Singh that he had last seen the deceased Jagrut with the applicant and Satish More on 26th September, 2018 at about 7.30 p.m.

5. PW-6 – Abhijit Dhumal, in his evidence has stated that the applicant and Satish More were his regular customers and that they had come to his hotel on 26th September, 2018, at about 10.15 p.m. This is all what is stated by this witness.

6. As far as, PW-4 – Nishad Nandkumar Patil is concerned, he

has stated that on 26th September, 2018, at about 7.00 p.m., he alongwith the deceased, Satish More (co-accused) and others were eating bhel at Warse S.T. Stop and that, the deceased had gone alongwith Satish (co-accused), however, did not return back. The said witness i.e. PW4 - Nishad does not speak about the presence of the applicant at the spot with the deceased, nor with Satish More.

7. According to the prosecution, the applicant showed the place from where, the branch of a tree was taken, which was used in the commission of the assault. According to the learned Counsel for the applicant, the very same spot was also shown by the co-accused - Satish More, one day prior and as such, the said evidence is not useful to the prosecution *qua* the applicant.

8. According to the prosecution, the applicant had sold a gold chain to another co-accused i.e. accused No.3, however, the said accused No.3 was acquitted after a full-fledged trial. The motive alleged is that of committing theft of a gold chain, which led to the deceased being assaulted. The applicant is in custody since 28th

September, 2018, for almost five years.

9. Considering the aforesaid evidence on record and the fact that the applicant's appeal is not likely to come up for the hearing in the immediate near future, 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.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 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.

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

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

GAURI GODSE, J.

REVATI MOHITE DERE, J.