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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 2032 OF 2023
IN
CRIMINAL APPEAL NO. 841 OF 2023

Sagar Sadanand Bhandari

...Applicant

Versus

State of Maharashtra

...Respondent

Mr. Sanjeev P. Kadam a/w. Ms. Varsha Thorat i/b. Mr. Bhanudas L. Jagtap for the Applicant.

Mr. S. V. Gavand, Addl. Public Prosecutor for the State.

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

DATE : 7th DECEMBER 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 by judgment and order dated 20th April 2022 passed by the Learned Sessions Judge, Borivali, Div. Dindoshi,

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Mumbai in Sessions Case No. 195 of 2017 has been convicted and sentenced alongwith other co-accused as under :

— for the offence punishable under section 302 read with Section 149 of the Indian Penal Code, to suffer imprisonment for life and pay fine of Rs.50,000/-, in default to undergo rigorous imprisonment for two years;

— for the offence punishable under sections 143, 144 and 148 of the Indian Penal Code, to suffer rigorous imprisonment for two years and pay fine of Rs.2,000/-, in default to undergo rigorous imprisonment for two months;

— for the offence punishable under section 506 (Part-II) of the Indian Penal Code, to suffer rigorous imprisonment for three years and pay fine of Rs.2,000/-, in default to undergo rigorous imprisonment for two months;

All the aforesaid sentences are been directed to run concurrently.

4. There is direct evidence relied upon by the prosecution i.e. two eye witnesses are PW-2 – Nasruddin Shamshuddin Khan and

PW-3– Sandip Jayantor Das. As far as PW-2-Nasruddin Shamshuddin Khan is concerned, he has in his evidence stated that the applicant pushed the deceased and thereafter assaulted him with fist blows. As far as PW-3- Sandip Jayantor Das is concerned, he too has alleged that the applicant pushed the deceased and assaulted him with fist blows and thereafter with an iron rod.

5. It appears from the prosecution case that the information with respect to the assault on the deceased was informed by the applicant to the Control Room by calling 100. The mobile number from which the call was made by the applicant is also recorded in his arrest form. As far as motive is concerned, admittedly, the applicant had no motive to assault the deceased in as much as the dispute was essentially between the deceased and the accused no. 1 with respect to an incident which had taken place seven years prior.

6. As far as recovery of clothes is concerned, although clothes are recovered at the instance of the applicant, no blood stains

were found on the same. It also appears that initially when the police reached the spot, the police apprehended original accused no. 1, present applicant and the deceased and took them to Siddharth Hospital where the deceased was treated, from there the deceased was brought to the police station and when he vomitted he was again taken to Cooper hospital where he scummbed to his injuries on the next date. The cause of death is stated to be head injury.

7. The applicant is in custody for about 6 ½ years. The appeal is of the year 2023 and is not likely to be heard in the near future. Considering the evidence on record qua the applicant, as stated aforesaid, the application is allowed and the applicant's sentence is suspended and he is enlarged on bail 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/- each 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 their 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.

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

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

GAURI GODSE, J.

REVATI MOHITE DERE, J.