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

**CRIMINAL INTERIM APPLICATION NO. 1545 OF 2023
IN
CRIMINAL APPEAL NO. 475 OF 2023**

Vilas Shankar Mokal ... Applicant

vs.

The State of Maharashtra and Anr ... Respondents

Mr. Aniket Vagal a/w. Ms. Savvy Kolhekar and Mr. Kunal Pednekar, for the Applicant.

Mrs. P.P. Shinde, A.P.P for the State.

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

DATED : 30th NOVEMBER 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 vide Judgment and Order dated 16th February 2023, passed by learned District and Sessions Judge, Nashik in Sessions Case No. 314 of 2017, has been convicted

and sentenced as under:-

- for the offence punishable under Section 302 of the Indian Penal Code, to suffer rigorous imprisonment for life and to pay fine of Rs. 10,000/-.

4. Perused the papers. Prosecution case rests entirely on circumstantial evidence. According to the prosecution, there is evidence of last seen i.e. the applicant was last seen with the deceased. In support of the said evidence, the prosecution examined the applicant's son, PW 4- Piyush Mokal, who was a minor at the relevant time. PW 4- Piyush's evidence shows, that the incident took place on 19th June 2017. He has stated that he left the house at 9.30 a.m with his father to go to school; however, since the teacher was not there, he returned back with his father; and that around 11.30 a.m, he again went to school with his grand mother and returned at 5.30 p.m from school with his grand mother. He has stated that when he returned, his father, sister and grand mother were present in the house. According to PW 4-Piyush, with the permission of the applicant, he went to play cricket at around 5.30 p.m; that his grand

mother went to the 1st floor of the house as construction work was going on and his younger sister went to play and as such only his mother and father (applicant) were at home. He has stated that thereafter, he returned home at 7.30 p.m and that when he returned, his grand mother called him and told him that his mother was not opening the door. He has further stated that he informed the applicant's friend i.e. PW 11- Borse, who in turn informed his father. He has stated that his father came and knocked the door, but as the door was locked from inside, they could not open the house. He has further stated that pursuant thereto, his father i.e. applicant went behind the house and climbed a 6 feet wall and went inside the house; that they all went behind his father to the bed room; that when the applicant opened the door, he saw his mother lying in a pool of blood; that the applicant started shouting and tried to cut his wrist with a blade, however, his friend stopped him from doing so.

5. Accordingly, the applicant lodged an FIR alleging an offence punishable under section 302 of the Indian Penal Code as against unknown person. The evidence on record shows that the

applicant was at a rationing shop at 6.30 p.m and from 6.47 p.m. to 7.30 p.m at a bar. It is the prosecution case, that the grandmother was on the 1st floor of the house, as construction work was on. The grand mother was present at 1st floor between 5.30 p.m. to 7.30 p.m, The spot panchanama does not reveal that the door was locked from outside. Instead, it appears that the door was locked from inside. There is some lacuna in support of the said evidence as noted by us.

6. Considering the evidence as stated aforesaid and the fact, that the applicant is in the custody for last 7 and ½ years, 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

four months on the day/date specified by the trial Court,
till his 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.

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

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

(GAURI GODSE, J.)

(REVATI MOHITE DERE, J.)