



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 1506 OF 2022
IN
CRIMINAL APPEAL NO. 502 OF 2022**

Sagar Ishwar Khairnar

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Sudeep Pasbola a/w. Mr. Ayush Pasbola and Mr. S.C.Mishra for
the Applicant in IA/1506/2022.

Mr. K. V. Saste, APP for the State.

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

DATE : 7th OCTOBER 2023

P. C. :

1. Heard learned counsel for the parties.
2. This is the third bail application preferred by the applicant seeking suspension of his sentence and enlargement on bail, pending the hearing and final disposal of his aforesaid appeal.

3. The applicant alongwith other co-accused has vide judgment and order dated 11th September 2017 passed by the learned Session Judge, Nashik in Sessions Case No. 117 of 2014 has been convicted and sentenced as under :

— for the offence punishable under section 302 r/w section 34 of Indian Penal Code to suffer rigorous imprisonment for life and to pay fine of Rs.1000/- in default, to suffer rigorous imprisonment for three months.

4. At the outset, we may note that the first bail application of the applicant was allowed to be withdrawn with liberty to file fresh application for bail after a period of two years. The said order is dated 29th November 2017 and is at Exhibit B at page 98 of the application. Subsequently, pursuant to the liberty granted, the applicant filed a second bail application. The said application was also withdrawn as the court was not inclined to grant bail to the applicant.

5. This is the third bail application. Learned counsel for the applicant submits that the applicant is in custody since 8th January 2014 for more than nine years.

6. Perused the papers. Admittedly, the three eye-witness examined by the prosecution have been disbelieved by the learned Judge and so is the dying declaration. The conviction of the applicant is based only on recovery of a blood stained knife and clothes at the instance of the applicant. This is the only evidence on which the applicant has been convicted.

7. Learned APP does not dispute the aforesaid. Considering the aforesaid fact, that the conviction is only based on the recovery of knife and clothes and having regard to the fact, that the applicant is in custody for more than nine 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 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 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.
8. 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.