

Anand

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

**INTERIM APPLICATION NO. 2153 OF 2023
IN
CRIMINAL APPEAL NO. 703 OF 2023**

Baburao Bhimsha Birajdar .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. Vikrant V. Phatate, Advocate, for the Applicant
Mr. A. R. Patil, AGP, for the Respondent – State

CORAM : MADHAV J. JAMDAR, J.

DATE : 22.12.2023

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1. The Interim Application is taken out for suspension of sentence and grant of bail.

2. On earlier date, Mr. Phatate, learned counsel appearing for the Applicant submitted that the Applicant is a senior citizen of 69 years and suffered paralysis in jail.

3. In view of these submissions, the matter is kept today. Mr. Patil, learned Addl. Govt. Pleader submitted the Medical Report dated 12.12.2023. *Inter alia*, the Medical Report records following.

“07) PAST ILLNESS/ACCIDENT/OPERATIONS (IF ANY) : KNOWN CASE OF HYPERTENSION AND LEFT SIDED HEMIPLEGIA ON REGULAR TREATMENT IN YERWADA PRISON HOSPITAL, PUNE.”

“10) CLINICAL DIAGNOSIS : LEFT SIDED HEMIPLEGIA IN KNOWN CASE OF HYPERTENSION AND CHRONIC KIDNEY DISEASE WITH FOLEYS CATHETER IN SITU.”

“15) PRESENT HEALTH STATUS : AT PRESENT, THE GENERAL HEALTH CONDITION OF THE PRISONER IS CRITICAL, PUT ON MEDICAL TREATMENT AS ADVISED BY EXPERTS OF SGH PUNE.”

4. Thus, it is clear that the Applicant is suffering from serious health condition. Apart from that in terms of the decision of the Supreme Court in the case of *Bhagwan Rama Shinde Gosavi & Ors. v. State of Gujarat*, reported in (1999) 4 SCC 421, in case of short sentences unless there are exceptional circumstances, the prayer for suspension of sentences can be considered by the Appellate Court liberally. No exceptional circumstances are pointed out.

5. Accordingly, the Interim Application is disposed of by passing the following Order :

(i) The substantive sentence of imprisonment imposed vide Judgment and Order dated 11.05.2023 passed by the learned District & Sessions Judge - 4, Solapur in Sessions Case No.336 of 2017 is suspended during the pendency of the Appeal;

(ii) The Applicant - **Baburao Bhimsha Birajdar** be released on bail on executing PR Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount;

(iii) The Applicant to furnish his permanent / present residential address and contact details to the Police Inspector of Valsang Police Station, Solapur.

6. The Interim Application is disposed of in the above terms with no order as to costs.

(**MADHAV J. JAMDAR, J.**)