



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 2432 OF 2023
IN
CRIMINAL APPEAL NO.727 OF 2023

Hemant Kedarnath Gaud

...Applicant

Versus

State of Maharashtra and Others

...Respondents

Mr. Bharat Manghani for the Applicant.

Mr. V. B. Konde Deshmukh, APP for the State.

CORAM : REVATI MOHITE DERE &
GAURI GODSE, JJ.

DATE : 30th AUGUST 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 alongwith other co-accused vide judgment and order dated 2nd June 2023 passed by the learned Additional

Sessions Judge, Mumbai in Session Case No. 473 of 2018 has been convicted as under:

— for the offence punishable u/s. 302 r/w. Section 34 of the Indian Penal Code, to suffer R.I. for life and pay fine of Rs.20,000/-, in default, to suffer simple imprisonment for one year;

— for the offence punishable u/s. 342 r/w. Section 34 of the Indian Penal Code, to suffer R.I. for one year and pay fine of Rs.1,000/-, in default, to suffer simple imprisonment for three months.

4. Perused the papers. According to PW-1 Rakesh Prajapati, first informant, the incident took place on 11th April 2018. It appears that the deceased-Bindu was preparing food at home, when the applicant called him saying, that Raghu (Original Accused No. 1) had called him home. He has stated that pursuant thereto Bindu went to Raghu's house, after which, the accused closed the room, thereafter he heard Bindu shouting as he was assaulted; that one Dharmendar knocked the door, but the door was not opened; that at about 8.00 pm the door was opened and

Bindu (deceased) came out from the said door; he was injured on both the arms; the three accused followed Bindu; Raghu was armed with a big danda in his hand. It is further alleged that Raghu (Original Accused no. 1) threw the danda. It is further alleged that Bindu disclosed that he was injured because he was assaulted by the accused. Thereafter, Bindu was taken to the hospital by Dharmender, Ajay and Manish Prajapati, where he came to be operated. It appears that Bindu succumbed to the injury after 15 days due to Septicemia caused by the surgery.

5. It is not in dispute that the applicant was on bail pending trial and that he has not abused or misused his liberty whilst on bail.

6. The motive of assault on Bindu is attributed to accused no. 1– Raghu and not to the appellant. The applicant is in custody since 2nd June 2023.

7. Considering the aforesaid, 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 aforesaid appeal, on

the following terms and conditions :

ORDER

(i) The Applicant be released on cash bail in the sum of Rs.20,000/-, for a period of six weeks;

(ii) The Applicant shall within the said period of six weeks, furnish P.R. Bond in the sum of Rs.20,000/- with one or two sureties in the like amount.

(iii) 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;

(iv) 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.

(v) 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. Interim Application is allowed in the aforesaid terms and accordingly disposed.

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

GAURI GODSE, J.

REVATI MOHITE DERE, J.