

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

*INTERIM APPLICATION NO.2513 OF 2023
IN
CRIMINAL APPEAL NO.340 OF 2021*

Baban Popat Dangat

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Aashish Satpute, for the Applicant.

Ms. P. P. Shinde, A.P.P for the Respondent – State.

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

DATE : 19th DECEMBER 2023

ORAL ORDER (Per Revati Mohite Dere, J.):

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, vide Judgment and Order dated 3rd February 2016, passed by the learned Additional Sessions Judge, Pune,

in Sessions Case No. 773 of 2010, has been convicted for the offence punishable under Section 302 of the Indian Penal Code and sentenced to undergo imprisonment for life and to pay fine of Rs.5,000/-, in default, to suffer further rigorous imprisonment for three months. The applicant has however been acquitted of the offence punishable under Sections 498-A and 309 of the Indian Penal Code.

4. Learned counsel for the applicant although has argued on merits, he submits that long incarceration of the applicant of about 13 years itself is a ground for enlarging the applicant on bail, having regard to the judgment of the Apex Court in the case of *Saudan Singh v/s The State of Uttar Pradesh*¹.

5. Learned APP does not dispute the fact that the applicant is in custody for about 13 years.

6. Perused the papers. The prosecution case rests on circumstantial evidence i.e. motive; that the applicant was present at

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the house when the death of the deceased (with whom allegedly he was having an affair) occurred; applicant's subsequent conduct; call made by the applicant to PW 3 making an extra-judicial-confession and recovery of knife, at his instance.

7. Although, there appears to be *prima facie* circumstances to show the complicity of the applicant, in the facts, having regard to the fact that the applicant is incarcerated for about 13 years; having regard to the judgment of the Apex Court in the case of ***Saudan Singh (supra)*** and no prospect of the appeal being heard in the immediate near future, 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. 20,000/- 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) The applicant shall not contact the complainant, witnesses or any person concerned with the case;
- v) The applicant shall file an undertaking with regard to clauses (ii) to (iv) in the trial Court, within two weeks of his release;
- vi) 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 of.

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

GAURI GODSE, J.

REVATI MOHITE DERE, J.