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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 3370 OF 2023
IN
CRIMINAL APPEAL NO. 1057 OF 2023**

Kalu Uttam Sonwane ...Applicant/Appellant

Versus

The State of Maharashtra ...Respondent

Mr. Sujeet Bugade, Appointed for the Applicant/Appellant.

Mr. S. V. Gavand, Additional Public Prosecutor for the State.

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

DATE : 12th DECEMBER 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 his aforesaid appeal.
3. The applicant by judgment and order dated 8th March 2023 passed by the Additional Sessions Judge, Malegaon in Sessions

Case No. 112 of 2017 has been convicted for the offence punishable under Sections 302 and 201 of the India Penal Code and sentenced as under :

— for the offence punishable under section 302 of the Indian Penal Code, to suffer imprisonment for life and pay fine of Rs.20,000/-, in default to suffer rigorous imprisonment for three years;

— for the offence punishable under section 201 of the Indian Penal Code, to suffer rigorous imprisonment for five years and pay fine of Rs.2,000/-, in default to suffer rigorous imprisonment for six months;

Both the said sentences are directed to run concurrently.

4. Perused the papers. Admittedly, the prosecution case rests on circumstantial evidence. The only circumstance, being that of extra-judicial confession, allegedly made by the applicant to his brother-in-law i.e. P.W.-3 – Nandu Sonwane.

5. It is not in dispute that there is no other circumstance, except the said circumstance.

6. As far as extra-judicial confession is concerned, it appears that the said extra-judicial confession was made few days after the FIR was registered and after P.W-3 (Nandu Sonwane) visited the house of the applicant, i.e. when the applicant is alleged to have disclosed to him that he killed Jabanabai. It is pertinent to note that pursuant thereto P.W.-3's supplementary statement was recorded. The said witness has not stated when the said disclosure was made by the applicant to him.

7. The applicant is in custody since 9th June 2017. The appeal is of the year 2023 and the same is not likely to reach in the immediate near future. Considering this is the only material, qua the applicant, 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.25,000/- each 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 the appeal is finally disposed of;

iii) The Applicant shall keep the trial Court informed of their 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.

RAJESHWARI
RAMESH PILLAI

Digitally signed by
RAJESHWARI RAMESH PILLAI
Date: 2023.12.13 18:48:25
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