

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO.3423 OF 2021
IN**

APPEAL NO.1356 OF 2018

**Mohammad Alam Abbas Khan ... Applicant/Appellant.
Vs.
The State of Maharashtra ... Respondent.**

Mr.Yakub Shaikh (appointed),Advocate for Applicant/Appellant.
Smt. MM Deshmukh, APP for the State.

...

**CORAM : NITIN W. SAMBRE &
 R. N. LADDHA, JJ**

DATED : 7th JANUARY, 2023.

P.C.:

1. This is an application under Section 389 of Cr.P.C. seeking suspension of sentence and for grant of bail.
2. The Sessions Court convicted the Applicant/Accused vide Judgment and order dated 27.4.2018 thereby awarding life imprisonment.
3. The case of the prosecution rests on circumstantial evidence. From the record, it is apparent that the only incriminating material which is considered against the Appellant is the evidence of

PW 7 who has seen the Appellant taking the red colour suitcase/bag. The said bag claimed to have been handed over by PW 10 to one Chandani, however, neither Chandni is examined so as to establish the said fact of having received the bag and handing over the same to the appellant/accused, nor the discovery of bag could be said to be at the instance of the Appellant.

4. In that view of the matter, it is difficult to accept the case of the prosecution, particularly when the same is resting on circumstantial evidence. Hence, the following order.

ORDER

- i) The application is allowed.
- ii) The Applicant be released on bail, on furnishing PR Bond of Rs.25,000/- with one or two local sureties in the like amount.
- iii) The Applicant shall neither influence the witnesses nor tamper with the evidence.
- iv) The Applicant shall attend the police station once in every 10 weeks till the conclusion of the trial.

(R. N. LADDHA, J)

(NITIN W. SAMBRE, J.)