

BDP-SPS-

BHARAT
DASHARATH
PANDIT

Digitally signed by
BHARAT
DASHARATH
PANDIT
Date: 2023.01.18
16:12:27 +0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.3783 OF 2022

IN

CRIMINAL APPEAL NO.481 OF 2018

Venugopal Kankayya Rasmal

.... Applicant/
Appellant
(Orig. Accused No.1)

V/s

State of Maharashtra

..... Respondent.

Dr. Yug Mohit Chaudhary for the Applicant/Appellant.

Mr. A.R. Kapadnis, APP for the Respondent/State.

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

DATE: JANUARY 18, 2023

P.C.:-

1] Heard Mr. Yug Mohit Choudhary, learned Counsel for the Applicant/Appellant.

2] For the offence punishable under Sections 302, 201, 404 read with Section 34 of the Indian Penal Code, Applicant/Appellant was

convicted with rigorous imprisonment for life. Applicant/Appellant has claimed suspension of sentence and grant of bail.

3] Applicant/Appellant for the aforesaid offence was arrested on 30/09/2014. Genesis of the case of the prosecution is, both the Accused were working with deceased Rajeshyam who was managing his power-loom business with the aid of brothers. Deceased advanced amount of Rs 15,000/- to Accused Ambadas and there were differences on return of the same, resulting into both the Accused with common intention committing murder of Rajeshyam by strangulation.

4] P.W. 1- Laxmi, wife of deceased Rajeshyam has in categorical terms stated that both the Accused were working with deceased and Accused have never visited her place. P.W. 9 - brother-in-law of P.W. 1 i.e. brother of deceased Rajeshyam has in his evidence in categorical terms stated that amount of Rs 15,000/- was advanced to Accused Ambadas. He has specifically stated that he is not aware about identity of Accused No.2 i.e. Accused relationship of employer-employee with deceased Rajeshyam.

5] P.W. 6 – Roshan Shetty has stated that accused persons contacted him for sale of motorcycle and Samsung Mobile handset. However, neither mobile handset is seized from any of the accused nor motorcycle. As far as ATM Card is concerned, seizure of the same prima facie appears to be under cloud. The entire case is based on circumstantial evidence.

6] Apart from above, having not prima facie satisfied the ingredients of offence under Section 34 i.e. common intention, prosecution appears to have failed to establish intention of the Applicant to commit the offence in question. That being so, case for suspension of sentence and grant of bail is made out.

7] Pending the hearing and final disposal of Criminal Appeal No.481 of 2018, execution of the sentence of the Applicant is suspended and Applicant is directed to be released on bail in S.C. No.612 of 2014 of Bhiwandi City Police Station on furnishing P.R. Bond in the sum of Rs 25,000/- with one or two local sureties in the

like amount. Applicant shall attend the concerned Police Station in the first week of every even month i.e. from February, 2023 till conclusion of Appeal. Applicant shall not contact the prosecution witnesses directly or indirectly.

8] Application stands disposed of accordingly.

[R. N. LADDHA, J.]

[NITIN W. SAMBRE, J.]