

applications for suspension of sentence and grant of bail before this Court, which were allowed vide orders dated 20th February 2023 and 25th September 2023. It is submitted that except the fact that Applicant was attributed motive for killing, the case of Applicant and accused who were directed to be released on bail, is identical. Applicant is in custody from 25th January 2017.

5. The fact that role attributed to the Applicant by eye witness is similar to the overt act attributed to the co-accused who were granted bail by this Court by suspending imprisonment, is not disputed.

6. While granting bail to the co-accused vide order dated 20th February 2023 this Court has considered the evidence of PW-12 who is the eye witness to the incident. While adjudicating the said application it was urged before this Court that the alleged incident had occurred on 20th January 2017 whereas the incident was disclosed by the eye witness (PW-12) for the first time on 28th January 2017. Conduct of said witness is unnatural. He saw the deceased in pool of blood but did not take him to hospital. He did not inform about the incident to the family members of deceased. Two other eye witnesses namely PW-4 and PW-7 did not support the prosecution case to the extent that accused had assaulted the deceased. While granting bail to said accused the witness this Court

took note of the fact that the witness did not take the deceased to the hospital. He neither disclosed the incident to police nor to the relatives of deceased. Although he attended the funeral of the deceased and met mother of the deceased and his relatives, he did not inform the incident to police. The said witness also stated that he did not go to hospital to see the deceased. He did not disclose the alleged fact of witnessing the incident till 28th January 2017 and that the recovery effected by investigating agency from all the accused was from the same area. The co-accused Shekhar Ahire and Rama Chavan were granted bail by order dated 20th February 2023 whereas other co-accused Rahul Gotarne was granted bail by order dated 25th September 2023 on the ground that other accused were granted bail by this Court.

7. The prosecution is relying on evidence of PW-12 against applicant. The overt act attributed to applicant is similar to other accused who were granted bail.

ORDER

- (i) Interim Application is allowed and disposed off;
- (ii) The sentence of imprisonment imposed vide judgment and order dated 20th December 2019 passed by Principal District Judge, Nashik in Sessions Case No.244 of 2017 is suspended during pendency of Criminal Appeal No.72 of 2020 on executing PR bond in

the sum of Rs.25,000/- with one or more sureties in the like amount;

(iii) Applicant shall attend Nashik Road Police Station, Nashik once in three months between 11 am and 1 pm till further orders.

(N.R.BORKAR, J.)

(PRAKASH D. NAIK, J.)

MST