

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

INTERIM APPLICATION NO. 3835 OF 2023

IN

CRIMINAL APPEAL NO. 103 OF 2016

Satpal Shivaji Mahanawar ... Applicant

Versus

The State of Maharashtra ... Respondent

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Ms. Rashi Sheth instructed by Mr. Rahul Kadam for the Applicant.
Mr. Tejas Dande for the Applicant (appointed Advocate).
Ms. S.D. Shinde, APP for the State.

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**CORAM : PRAKASH D. NAIK &
N.R. BORKAR, JJ.**

DATED : 21st DECEMBER 2023

P.C. :-

1. Learned Advocate Mr. Tejas Dande was appointed to represent the Applicant/Appellant. Learned Advocate Mr. Rahul Kadam is on record. Ms. Sheth submitted that she has been instructed to appear and argue this application. Hence, learned Advocate Mr. Tejas Dande is discharged from appearing in this proceedings.

2. This is an application for suspension of sentence and grant of bail during the pendency of Criminal Appeal No.103 of 2016.

3. The Applicant has been convicted vide Judgment and Order

dated 22nd December 2015 passed by the Learned Additional Sessions Judge, Baramati in Sessions Case No. 53 of 2013 for the offence under Section 302 of Indian Penal Code and sentenced to suffer imprisonment for life.

4. Previous application for suspension of sentence and grant of bail was rejected by this Court vide Order dated 2nd December 2016.

5. Learned Counsel for the Applicant submitted that although the previous application is rejected in 2016, the Appeal could not be heard. The Applicant is in custody for a period about 10 years and 11 months. The entire case is based on circumstantial evidence. There are serious discrepancies in the case. The prosecution has not established motive for commission of crime. The evidence of PW-1 and PW-2 is doubtful and not sufficient to convict the Applicant.

6. Learned APP submits that PW-1 is the mother of the deceased. She has stated that the accused had slept in her house alongwith the deceased. On the next day, victim was found dead. There was dispute between the family of the accused and the complainant. PW-2 has seen the accused near the house of the deceased at about 12.30 hours in the night. There is recovery of chain from the Applicant. The medical officer has stated that death can be caused by the chain. There are strong circumstances against the Applicant.

7. It is pertinent to note that the Applicant has been in the custody almost for a period of 11 years. The Appeal could not be taken up for hearing. There is no eye-witness to the incident. The case is based on circumstantial evidence. PW-1 is the mother of the deceased. Although she has stated that there were dispute between family of the

accused and the complainant, her evidence also indicate that the deceased, accused and others had loaded the onions in the vehicle on the date of incident. The accused had slept in their house. Motive prima facie appears weak. PW-2 stated that he saw the accused near the house of the deceased at about 12.30 hours in the night. It is not the case of PW-2 that accused was carrying any weapon in his hand which was allegedly used for strangulating the deceased.

8. Considering the nature of evidence and the fact that the Applicant is in custody for substantial period of time, case for suspension of sentence can be granted.

ORDER

- (i) Interim Application No. 3835 of 2023 is allowed.
- (ii) The substantive sentence of imprisonment imposed vide Judgment and Order dated 22nd December 2015 passed by the Learned Additional Sessions Judge, Baramati in Sessions Case No. 53 of 2013 is suspended during pendency of Appeal and the Applicant is directed to be released on bail on executing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount.
- (iii) The Applicant shall attend concerned Police Station once in three months i.e. on the first Saturday of the month between 11.00 a.m. and 1.00 p.m. till further orders.
- (iv) Interim Application is disposed off.

(N.R. BORKAR, J.)

(PRAKASH D. NAIK, J.)

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DHURI

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