

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

**INTERIM APPLICATION NO. 1790 OF 2019
IN
CRIMINAL APPEAL NO. 215 OF 2020**

Shahanshah Yasin Mujawar	...	Applicant
Versus		
The State of Maharashtra	...	Respondent

Mr. Pratap Patil for the Applicant.
Mrs. G. P. Mulekar, APP for the Respondent-State.

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

DATE : 5th JANUARY, 2023

P.C. :-

. Heard.

2. This is an application under Section 389 of the Code of Criminal Procedure for suspension of sentence and grant of bail. The applicant/appellant/accused is convicted for an offence punishable under Sections 302, 201, 364 read with Section 34 of the Indian Penal Code and is sentenced to undergo life imprisonment.

3. The claim of the Counsel for the appellant/applicant is that the applicant has already suffered sufficient incarceration. There is weak piece of evidence available on record against the applicant and as such, he deserves to be released.

4. Mrs. Mulekar, learned APP would oppose the prayer based on the testimony of PW-9.

5. We have appreciated the submissions.

6. The PW-9 Subodh, an eye-witness to the incident has specifically stated about the presence of the applicant along with other co-accused in the commission of the offence. The deceased Samir was carried by the appellant/applicant along with other co-accused as could be inferred from the said testimony.

7. In the aforesaid background, there appears to be strong evidence on the record as regards to the *prima facie* involvement of the applicant in commission of the crime. Other similarly placed accused Sangram has already suffered a conviction of an identical prayer vide order dated 3rd February, 2020 passed in Criminal Application No. 1316 of 2019 in Criminal Appeal No. 446 of 2019.

8. That being so, no case for grant of prayer for suspension of sentence until is made out. The application stands rejected.

9. The appeal be tagged and heard with Criminal Appeal No. 446 of 2019.

[R. N. LADDHA, J.]

[NITIN W. SAMBRE, J.]