



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 99 OF 2019**

IN

CRIMINAL APPEAL NO. 390 OF 2019

Prashant Purushottam Bobade

...Applicant

Versus

1. The State of Maharashtra

...Respondents

2. Sidubai Janak Yeole

Mr. Satyavrat Joshi for the Applicant in IA/99/2019.

Ms. P. P. Shinde, APP for the State.

**CORAM : REVATI MOHITE DERE &
GAURI GODSE, JJ.**

DATE : 5th OCTOBER 2023

P. C. :

1. Heard learned counsel for the parties.
2. By this application, the applicant seeks suspension of his sentence and enlargement on bail, pending the hearing and final disposal of his aforesaid appeal.
3. The applicant who is accused no. 3 is convicted along with other co-accused vide judgment and order dated 18th February 2019 passed by the learned Additional Sessions Judge, Khed, Rajgurunagar, District: Pune in Sessions Case No. 92 of 2014 and

sentenced as under:

— for the offence punishable under Section 143 r/w 149 of the IPC to suffer rigorous imprisonment for six months and to pay fine of Rs.1000/-, in default, to suffer rigorous imprisonment for six months;

— for the offence punishable under Section 302 r/w 149 of IPC to suffer imprisonment for life and to pay fine of Rs.2000/-, in default, to suffer rigorous imprisonment for three months;

— for the offence punishable under Section 147 r/w 149 of IPC to suffer rigorous imprisonment for two years and to pay fine of Rs.1000/-, in default, to suffer rigorous imprisonment for three months;

— for the offence punishable under Section 148 r/w 149 of IPC to suffer rigorous imprisonment for two years and to pay fine of Rs.1000/-, in default, to suffer rigorous imprisonment for three months;

All the sentences have been directed to run concurrently.

4. Learned counsel for the applicant submits that there are two eyewitnesses, PW 1 - Sachin Panchal and PW 4 – Vimal Kadam; however, PW 4 has turned hostile. PW 1- Sachin Panchal has stated that the present applicant started assaulting the deceased-Amol Yewale with a sickle. PW-1 has further stated that Ajay Chavan (absconding accused) assaulted the deceased with an axe, and Tukaram Netke with an iron rod.

5. Learned counsel for the applicant submitted that the cause of death is shown as “complications following traumatic head injury”. He submits that although PW 1– Sachin Panchal has stated that all the three accused (including the applicant) assaulted with an axe, sickle and iron rod, the said witness has not specifically stated on which part of the body. He submitted that since no specific role has been attributed to the applicant, vis-a-vis the injury caused, resulting in his death and having regard to the cause of death, it cannot be said that the head injury was caused by the applicant/accused.

6. Learned counsel further submitted that co-accused no. 4- Tukaram Netke, who assaulted the deceased with an iron rod, has been granted bail by this court by order dated 19th August 2019. He further submitted that the applicant has been incarcerated for the last 11 years and six months.

7. Learned APP opposed the application. She submitted that the evidence of the eyewitness i.e. PW 1 – Sachin Panchal clearly shows the complicity of the applicant in the alleged crime. She, however, does not dispute that the applicant is in custody for more than 11 years.

8. Perused the papers and, in particular, the evidence of PW 1. Prima facie we do not find any serious infirmities in the evidence on record; however, the same would have to be considered after a detailed examination of the entire evidence. The Apex Court, in the case of *Saudan Singh Vs. State of Uttar Pradesh*¹ granted bail therein to several accused who were in custody for more than 10 years to 17 years and whose appeals have been pending before the Apex Court.

1 2022 SCC OnLine SC 697

9. The present appeal is of the year 2019, and is not likely to be taken up for hearing in the immediate near future. Co-accused no. 4 i.e. Tukaram Netke, against whom a similar role has been attributed, has already been released on bail by this Court.

10. Having regard to the aforesaid and the decision of the Apex Court in the case of *Saudan Singh* and the fact, that the appellant is in custody for more than 11 years and 6 months, we allow the application and suspend the sentence of the applicant and enlarge him on bail pending the final disposal of his appeal on the following terms and conditions:

ORDER

i) The applicant be enlarged on bail on furnishing P.R.Bond in the sum of Rs.25,000/- with one or two sureties in the like amount;

ii) The applicant shall report to the trial Court once in four months on the day/date specified by the trial Court till the appeal is finally disposed of;

iii) The applicant shall keep the trial Court informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time;

iv) If there are two consecutive defaults in appearing before the trial Court, the learned Judge shall make a report to the High Court and the prosecution would be at liberty to file an application seeking cancellation of bail.

11. The Application is allowed in the aforesaid terms and is accordingly disposed of.

All concerned to act on the authenticated copy of this order.

GAURI GODSE, J.

REVATI MOHITE DERE, J.