

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

INTERIM APPLICATION NO. 207 OF 2019
IN
CRIMINAL APPEAL NO. 1210 OF 2019

Subhash Bhikanmahato Yadav ...Applicant
Versus
The State of Maharashtra & Ors. ...Respondents

Ms. Valentina Sampson a/w Mr. Harshit Gudhka and
Ms. Rukhsana Khan for the Applicant

Mr. J. P. Yagnik, A.P.P for the Respondent No.1-State

Mr. Abhijit B. Kadam a/w Mr. Prem Mhatre for the Respondent
Nos. 2 and 3

CORAM: REVATI MOHITE DERE &
GAURI GODSE, JJ.
WEDNESDAY, 6th DECEMBER 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 the aforesaid appeal.

3 The applicant vide judgment and order dated 25th June 2019, passed by learned Sessions Judge, Raigad, in Sessions Case No. 5/2017, has been convicted and sentenced as under:

- for the offence punishable under Section 302 r/w Section 34 of the Indian Penal Code, to suffer simple imprisonment for life and to pay fine of Rs.50,000/- each, in default, to suffer rigorous imprisonment for 5 years;
- for the offence punishable under Section 201 r/w Section 34 of the Indian Penal Code, to suffer rigorous imprisonment for 7 years and to pay fine of Rs.20,000/- each, in default, to suffer rigorous imprisonment for 2 years.

Both the aforesaid sentences were directed to run concurrently.

4 Perused the papers. Admittedly, the prosecution case rests on circumstantial evidence. The circumstances being motive; recovery of blood-stained clothes at the instance of some of the

accused (not the applicant) and last-seen the deceased with some of the accused (not the applicant).

5 As far as motive is concerned, no motive is alleged *qua* the applicant, but is alleged against the other two accused. As far as recovery of blood-stained clothes are concerned, the said clothes were recovered at the instance of original accused Nos. 3 and 4. The present applicant is the original accused No.2. Even as far as last-seen evidence is concerned, there is no evidence of last-seen against the applicant. The applicant is in custody since 2016, for almost more than 7 years. The appeal is of the year 2019 and is not likely to be heard in the near immediate future.

6 Considering the aforesaid and what is stated herein-above, the application is allowed and the applicant's sentence is suspended and he is enlarged on bail, pending the hearing and 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 his 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.

7 The application is accordingly disposed of in the
aforesaid terms.

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

GAURI GODSE, J.

REVATI MOHITE DERE, J.