

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

**INTERIM APPLICATION NO. 459 OF 2019
IN
CRIMINAL APPEAL NO. 223 OF 2020**

Raj Ramprasad Acharya ... Applicant
V/s.
The State Of Maharashtra ... Respondent

Dr. Yug Mohit Chaudhari for Applicant.
Mr. Ajay Patil, APP for Respondent-State.

**CORAM : NITIN W. SAMBRE &
RAJESH S. PATIL, JJ**

DATED : 28th AUGUST, 2023

P.C.:

1. In the Sessions case no 710 of 2013, the Applicant/Accused No. 2 came to be convicted for an offence punishable u/s. 302 of IPC and is sentenced to undergo life imprisonment and pay fine.
2. Mr. Chaudhari, learned Counsel appearing for the Applicant/Accused No. 2 would urge that the Applicant had already suffered incarceration for the period of 12½ years after adjusting the period of remission as he has already suffered 10½ years of the actual imprisonment.
3. According to him, in view of the judgment of Apex Court in the matter of **Suleman vs. State of Uttar Pradesh**

(Miscellaneous Application No. 764 of 2022 in Criminal Appeal No. 491 of 2022) he would urge that the Applicant having already undergone more than 10 years of imprisonment, is liable to be released even if he was not on bail during the Trial. He would further urge that the Applicant is convicted solely based on the testimony of P.W. No. 2-Ramkumar and other circumstantial evidence.

4. Learned APP would oppose the prayer as according to him the investigation carried out completes the chain of events which shows the involvement of the Applicant in the offence in question and as such he suffered conviction thereby awarding life imprisonment. In this background, he would urge that the Application for bail is liable to be rejected.

5. The fact remains that the deceased - Bambahadur was in the company of P.W. No. 2-Ramkumar who has deposed that there was a quarrel *inter se* between the deceased and Accused No. 1-Sunil. The Accused No. 1 and Accused No. 2 then entered the room of the deceased- Bambahadur wherein P.W. No. 2-Ramkumar was also residing and they tried to take on the deceased- Bambahadur. However, the quarrel was separated by the witnesses.

6. Subsequent thereto, deceased-Bambahadur left the room of P.W. No. 2 so as to again continue the quarrel and thereafter dead body of the deceased was discovered. The injury nos. 19, 20 and 21 are said to be sufficient to cause death, as could be noticed from the testimony of doctor who has conducted the post mortem in the matter.

7. The fact remains that P.W. No. 2-Ramkumar is not an eye witness to the incident but his deposition is sufficient to the extent of establishing the fact that the deceased left his company so as to join the accused persons to continue their quarrel.

8. The other incriminating material recovered from custody of the accused persons is, blood-stains on clothes and the blood report is said to be inconclusive.

9. In this background, the Applicant having suffered actual incarceration for a period of more than 10½ years and the case of the prosecution is based on the circumstantial evidence, we deem it appropriate to allow the present Interim Application, provided that the Applicant has already paid the fine amount.

10. The Applicant be released on bail in Sessions Case No. 710 of 2013 for the offence punishable u/s 302 of IPC upon furnishing P.R. bond in the sum of Rs. 25,000/- with one or two sureties in the like

amount.

11. The Applicant shall neither influence the witnesses nor tamper with evidence in any manner.

12. The Interim Application is allowed in aforesaid terms and stands disposed of.

(RAJESH S. PATIL, J)

(NITIN W. SAMBRE, J.)