



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.

16 CRIMINAL APPLICATION NO. 21 OF 2024
IN
CRIMINAL APPEAL NO.953 OF 2023

Madhukar @ Bhadya S/o Shivram Muley

....Applicant

Versus

The State of Maharashtra

.....Respondent

.....

Advocate for the Applicant : Shri. Sudhir K. Chavan

APP for Respondent / State : Smt. V. S. Chaudhari

.....

CORAM : R. G. AVACHAT AND
NEERAJ P. DHOTE, JJ.

Dated : January 29, 2024

PER COURT :-

. Heard Mr. Sudhir K. Chavan, learned Advocate for the Applicant and Smt. V. S. Chaudhari, learned APP for the State.

2. This is the Application for suspension of substantive sentence imposed by the learned Additional Sessions Judge-4, Parbhani in Sessions Case No.87/2017 vide Judgment and order dated 22.01.2019 thereby convicting the Applicant / Appellant for the offence punishable under Section 302 of the Indian Penal Code and sentencing him to undergo Rigorous Imprisonment for Life with fine of Rs.10,000/-, in default to undergo Rigorous Imprisonment for two (02) years for the offence punishable under Section 302 of the I.P.C.

3. The case is based on circumstantial evidence. According to the learned Advocate for the Applicant / Appellant that the only evidence in the present matter is last seen together, however there are inconsistencies in the versions of the witnesses.

4. Learned APP submits that the case has been proved by the prosecution and she has strong objection for suspending the sentence.

5. There is no dispute that the Applicant / Appellant is behind the bars since last more than 6 ½ years. There is no possibility that the Appeal could come up for final hearing in the near future. Thus, in our view, it would be appropriate to Suspend the substantive sentence of the Applicant /Appellant during the pendency of the present Appeal.

6. Hence, the following order:

ORDER

(i) The Application is allowed.

(ii) The substantive sentence imposed by the learned Additional Sessions Judge-4, Parbhani in Sessions Case No.87/2017 vide Judgment and order dated 22.01.2019 on the Applicant / Appellant, namely, Madhukar @ Bhadya S/o Shivram Muley, is suspended during the

pendency of the present Appeal.

(iii) The Applicant / Appellant be released on bail on furnishing P. R. Bond of Rs.15,000/- (Rupees Fifteen Thousand Only), with one surety in the like amount.

(iv) Bail before the Trial Court.

(v) The Applicant / Appellant shall not change his residential address without intimation to the concerned Police Station.

7. Criminal Application stands disposed of accordingly.

(NEERAJ P. DHOTE, J.)

(R. G. AVACHAT, J.)

GGP