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CR APPLICATION NO. 1059 OF 2024

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

**CRIMINAL APPLICATION NO. 1059 OF 2024  
IN APPEAL/233/2024**

Akash Maroti Madiboyne  
Age: 28 years, Occu.: Labour,  
R/o. Halsi-Hattarga, Tq.Nilanga,  
Dist.Latur.

....Applicant

Versus

The State of Maharashtra

.....Respondent

.....

Advocate for Applicant : Mr.Satej S.Jadhav

APP for Respondent : Mrs.Chaitali Choudhari - Kutti

.....

**CORAM : ABHAY S. WAGHWASE, J.**

**DATE : 24 APRIL, 2024**

**ORDER :-**

1. This is an application for suspension of sentence awarded by learned Additional Sessions Judge, Latur in Sessions Case No.100 of 2021 by judgment and order dated 20-02-2024.

2. Learned Counsel for the applicant submitted that applicant was chargesheeted by Vivekanand Chowk Police Station for commission of offence under Sections 302, 504 read with 34 of

the Indian Penal Code (IPC). However, it is pointed out that on conclusion of trial, applicant is held guilty only for offence under Section 304 Part-I read with 34 of the IPC and he is sentenced to suffer rigorous imprisonment for five years and to pay fine. Learned Counsel submitted that there is a good case on merits in appeal. That already applicant is behind bars for last three years. Therefore, he seeks above relief of suspension of sentence and grant of bail.

3. Learned APP for the respondent opposed the application on the ground that death has taken place. That there are two eye witnesses. That role of applicant is specific and therefore, for such reasons, she opposes the relief.

4. On considering the submissions advanced by both the sides and on going through the papers, it seems that applicant was tried vide Sessions Case No.100 of 2021 for offence under Sections 302, 504 read with 34 of the IPC. It seems that in support of its case, prosecution has examined in all eight witnesses as well as relied on documentary evidence. Operative

part of the judgment and order shows that though there was charge of Section 302 of the IPC, present applicant Akash is held guilty for offence under Section 304 Part I of the IPC and he is sentenced to suffer rigorous imprisonment for five years. Statement across the bar is made that he is behind the bars since last three years. This fact is not opposed by learned APP. Appeal is filed in 2024 and it will obviously take long time to be heard and decided.

5. In view of above facts and circumstances, relief as prayed deserves to be granted. Accordingly, I proceed to pass following order :

#### **ORDER**

- (I) Criminal Application stands allowed.
- (II) The substantive sentence imposed on the applicant in Sessions Case No.100 of 2021 by the learned Additional Sessions Judge, Latur on 20-02-2024 stands suspended till the final hearing and disposal of Criminal Appeal No.233 of 2024.

(III) The applicant Akash Maroti Madiboyne be released on P.R. Bond of Rs.30,000/- (Rs. Thirty thousand only) with two solvent sureties in the like amount.

(IV) The applicant shall not commit any criminal activity.

(V) The applicant shall remain present before the learned trial Judge once in six months, till final hearing and disposal of the appeal, commencing from the date he tenders bail papers and thereafter, the trial Judge to fix dates for his subsequent appearances.

(VI) In case of two consecutive defaults on the part of the applicant to remain present before the trial Court, the trial Court to inform this Court about the same and in that eventuality, the prosecution would be at liberty to file an application for cancellation of the bail granted to the applicant.

(VII) Bail before the trial Court.

( **ABHAY S. WAGHWASE** )  
**JUDGE**