



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

**CRIMINAL APPLICATION NO.2369 OF 2024 IN
CRIMINAL APPEAL NO.529 OF 2024**

Magar Maroti Ballal

... APPLICANT

VERSUS

The State of Maharashtra

... RESPONDENT

.....
Mr. S.J. Salunke, Advocate for applicant
Mr. A.D. Wange, A.P.P. for respondent
.....

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

DATE : 9th JULY, 2024

ORDER :

Heard. This is an application for suspension of sentence and for releasing the applicant/ appellant on bail during the pendency of the appeal.

2. It is submitted by learned Advocate for the applicant/ appellant that the applicant/ appellant is convicted only on the basis of blood stains of deceased on his clothes. He submits that, except this, there is no evidence against the applicant/ appellant. He submits that, the co-convict is granted

bail by suspending his sentence by this Court vide order dated 9/5/2024 in Criminal Application No.1876/2024 in Criminal Appeal No.438/2024. He submit that, the applicant is behind the bars for more than five years and in view of the above factual aspects, the application be allowed.

3. The learned A.P.P. though opposed the application, submits that, from the observations of the learned Trial Court, it is clear that, none of the witnesses have supported the case of the prosecution and the conviction of the applicant/ appellant is based on the basis of blood stains of the group of blood group of the deceased on the clothes of the applicant/ appellant.

4. We have perused the judgment of the learned Trial Court. It is seen that, the conviction of the applicant/ appellant is based on the basis of blood of the blood group of the deceased on the clothes of the applicant/ appellant. From the observations of the learned Trial Court, made in the impugned judgment, it is seen that, the other evidence was not accepted except the blood stains on the applicant's clothes. Admittedly, the co-convict, who was more or less similarly situated with the applicant/ appellant is granted bail by this Court by above mentioned order. The only difference is that the blood group

on the clothes of the co-convict was found to be inconclusive and the blood group on the applicant's clothes is found to be of the group similar to the blood group of the deceased.

5. It would be debatable as to whether only on the basis of this piece of evidence the conviction of the applicant/appellant could be sustained. The applicant is behind the bars for more than five years. There is no possibility that the appeal would be heard in near future. In these facts and circumstances, we proceed to pass the following order :-

ORDER

(i) The Criminal Application is allowed.

(ii) The substantive sentence imposed by the learned Additional Sessions Judge, Ambajogai, District Beed, vide Judgment and Order dated 29/04/2024 in Sessions Case No.62/2019 on the Applicant, namely Magar Maroti Ballal, is suspended during the pendency of the present Appeal.

(iii) The Applicant be released on bail on his 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.

6. Criminal Application stands disposed of accordingly.

(NEERAJ P. DHOTE, J.)

(R.G. AVACHAT, J.)

fmp/-