



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

917 CRIMINAL APPLICATION NO. 4570 OF 2023
IN
CRIMINAL APPEAL NO. 1134 OF 2023

Prakash Bhagwan Magar

... Applicant

Versus

The State of Maharashtra

... Respondent

.....

Advocate for Applicant : Shri. Amol Subhash Gandhi

Addl. P P for the Respondent / State : Shri. S. D. Ghayal

.....

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

Dated : January 17, 2024

PER COURT :-

. This is the Application for suspension of substantive sentence imposed by the learned Additional Sessions Judge-3, Ahmednagar in Sessions Case No. 24/2013 vide order dated 25.10.2023.

2. Heard the learned Advocate Shri. Amol Subhash Gandhi for the Applicant /Orig. Accused No.2 and the learned Addl. P P Shri. S. D. Ghayal for the Respondent / State. Perused the paper book.

3. The Accused No. 1 is dead and therefore, the appeal abated against him. It is brought to our notice that the Accused No.3 and 4 are

absconding.

4. It is the prosecution's case that, the Accused No. 4 was having illicit relations with the mother of the deceased Ganesh. Since deceased Ganesh was opposing the said illicit relationship, Accused No. 4 hired Accused Nos. 1 to 3 and committed the murder of deceased Ganesh.

5. Admittedly, the case is based on circumstantial evidence. It is pointed out that the accused and the deceased were lastly seen in the hotel of PW No.6 at around 01:30 p.m. on 09.10.2021 and the dead body of Ganesh was found on the following day at around 09:30 a.m. It is *prima facie* seen that the time gap between the last seen and the death is long. Though the recovery is made, blood stain is inconclusive. Considering the fact that the Appeal would not come up for final hearing in the near future and the Applicant / Appellant was on bail during the trial, it would be appropriate to Suspend the substantive sentence of the Applicant/Appellant.

6. In light of the above, we proceed to pass the following order:

ORDER

(i) The Application is allowed.

(ii) The substantive sentence imposed by the learned Additional Sessions Judge-3, Ahmednagar in Sessions Case No. 24/2013 vide order dated 25.10.2023 on the Applicant / Appellant, namely, Prakash Bhagwan Magar, 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 report to the concerned Police Station once in first week of every month between 04:00 p.m. to 06:00 p.m. until further orders.

(vi) 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.)