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IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISC. APPLICATION NO.65/2024
IN
CRIMINAL APPEAL NO.47/2024

ABDUL KADAR JAVALI,
PRESENTLY LODGED
JUDICIAL CUSTODY,
COLVALE MODERN JAIL ⋯ APPLICANT

Versus

STATE OF GOA, (AS
REPRESENTED BY THE
OFFICER I/C. VASCO
POLICE STATION) AND ANR. ⋯ RESPONDENTS

Mr Amit Palekar with Mr Rakesh Naik, Advocates for the Applicant.
Mr S. Karpe, APP for the Respondent-State.

CORAM: M. S. KARNIK &
NIVEDITA P. MEHTA, JJ.

DATE: 12th DECEMBER 2024

P.C.:

1. Heard Mr Amit Palekar for the applicant and Mr S. Karpe, learned APP for the State.

2. This is an application for suspension of sentence and for enlarging the applicant on bail under Section 430 of Bharatiya Nagarik Suraksha Sanhita (BNSS). The applicant is convicted by Judgment and Order dated 10.05.2024 passed by the Additional Sessions Judge, South Goa at Margao

in Sessions Case (Ors.) No.30/2018 and sentenced to undergo imprisonment for life and to pay fine of Rs.10,000/-. The Order records that the applicant is in custody for a period of five years and eleven months as of 10.05.2024.

3. The case of the prosecution in brief is that on 08.06.2018 at about 22.15 hrs. after closing the shop styled as Sagar Hardware and Ply Centre, the complainant along with his co-employees Bharat, Jagid, Suresh Sutar and Shan Bhati were about to go to their residence. At that time, he saw two persons holding hands of his owner Harish Kumar Solanki and trying to put him inside a car. The complainant and others tried to rescue the owner but the kidnappers fled away with the car. After some time the complainant received a call from the phone of his owner and an unknown kidnapper demanded a ransom amount of Rs.10 lakhs.

4. The prosecution in support of its case examined twenty-nine witnesses. The defence of the applicant was total denial. The finding of the Trial Court is partly affirmative on the point as to whether the prosecution proves that all three accused conspired and abducted the victim at ransom under a threat to kill or hurt.

5. With assistance of the learned counsel for the applicant, we have perused the materials on record. After the abduction, the victim was left at the railway gate and within some time. The accused fled away. According

to the learned APP one knife was recovered from the vehicle used for abduction. However, the victim did not suffer any injury nor any ransom was actually paid.

6. The appeal may take some time to be heard finally. The applicant now is in custody for almost six years and six months. In this view of the matter, in the facts and circumstances of the present case, though the application for suspension of sentence and bail is vehemently opposed by Mr S. Karpe, learned APP appearing for the State, we are inclined to suspend the sentence and release the applicant on bail during the pendency of the appeal.

7. The application is therefore allowed. The sentence of the Trial Court by its Judgment and Order dated 10.05.2024 passed in Sessions Case No.30/2018 is suspended during the pendency of Criminal Appeal and the applicant is enlarged on bail on the following conditions:

(i) The applicant to be enlarged on bail on furnishing a personal bail bond in the sum of Rs.25,000/- with one or two sureties in the like amount to the satisfaction of the Trial Court;

(ii) The applicant to report to the Vasco Police Station once in three months on every first Monday commencing from January 2025;

(iii) The applicant shall hand over a copy of his passport to the Trial Court if he has been issued one. In case the applicant does not have a passport, an affidavit to be filed to that effect;

(iv) The applicant to furnish his contact details such as residential address and telephone numbers to the Trial Court;

(v) The applicant shall not leave the country without the leave of this Court.

8. The Criminal Misc. Application is disposed of in the above terms. The parties to act on an authenticated copy of this Order.

NIVEDITA P. MEHTA, J. **M. S. KARNIK, J.**

Signed by: SUCHITRA NANDAN SINGBAL
Designation: Personal Assistant
Date: 12/12/2024 15:00:22