

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****INTERIM APPLICATION NO.512 OF 2024****IN****CRIMINAL APPEAL NO. 13 OF 2021**

Vijay Dinkar Karande

... Applicant

V/s.

The State of Maharashtra

... Respondent

Dr. Yug M. Chaudhry a/w Mr. Anush Shetty for Applicant.
Mr. Ajay Patil, A.P.P. for Respondent-State.

**CORAM : A. S. GADKARI AND
SHYAM C. CHANDAK, JJ.**

DATE : 3rd APRIL 2024

P.C. :

(1) This is an Application for suspension of sentence and releasing the Applicant on bail.

(2) Applicant along with two co-accused, is convicted under Section 302 read with Section 34 of the Indian Penal Code for allegedly committing murder of Dhanaji, by the impugned Judgment and Order dated 16th October, 2020 passed by Additional Sessions Judge, Kolhapur, District Kolhapur.

(3) Record indicates that, there was a long standing tussle between the group of accused and deceased and his family members over the landed property. It is alleged that, on the date of incident i.e. on 28th February 2018,

Applicant was holding of bamboo stick and dispute arose as deceased threatened to kill the family members of Applicant.

(4) It is alleged that, during the said dispute, Applicant gave a stroke of bamboo stick on the head of Dhanaji. Dhanaji fell on the ground. When Namdev Karande (PW-3) tried to pacify the said quarrel, co-accused Rajendra Karande inflicted blow with the stick in his hand on the head of Naamdev. Sakhubai Karande (PW-4), the aunt of Namdev Karande intervened. It is alleged that, the co-accused Rajendra Karande inflicted blow with the bamboo stick on her head also. It be noted here that, Dhanaji (deceased) and Applicant were cousin brothers and Sakhubai Karande (PW-4) was their aunt. Deceased was admitted in the hospital immediately on 28th February, 2018. The medical record indicates that, the deceased suffered a single blow on his head with a bamboo stick. He took discharge from the hospital against the medical advice and got himself admitted in another hospital. He passed away on 8th March, 2018 while undergoing treatment.

(5) Dr. Chaudhry, learned counsel appearing for Applicant submitted that, even if prosecution case is accepted as it is, the offence allegedly committed by Applicant would fall with the purview of Section 304 (Part-II) and not under Section 302 of the Indian Penal Code. *Prima facie* after considering the evidence on record, we find substance in his submission.

(6) Record indicates that, as of today, the Applicant has undergone 5

years in incarceration. There are no antecedents at the discredit of the Applicant.

(7) In view thereof, during the pendency of the present Appeal, we are inclined to suspend the sentence and release the Applicant on bail on the following terms and conditions :-

(i) The Applicant shall be released on bail in Sessions Case No.79 of 2018 arising out of C.R.No.18/2018 registered with Ispurli Police Station, District Kolhapur, on his furnishing PR. bond in the sum of Rs.25,000/- each with one or two separate solvent local sureties in the like amount.

(ii) After his release from jail and during the pendency of the present Appeal, the Applicant shall attend Ispurli Police Station, District Kolhapur, on every first Monday of the month between 10.00 a.m. and 12.00 noon initially for a period of one year.

After end of one year, the Applicant shall attend Ispurli Police Station, District Kolhapur, on every 1st Monday of every 3rd Month between 10:00 a.m. and 12:00 noon. The Applicant thus shall attend Ispurli Police Station, District Kolhapur, four times in a year during the pendency of the present Appeal.

(iii) In case of two consecutive defaults in complying with the

aforestated conditions, the Prosecution is at liberty to file an Application for cancellation of his bail.

(iv) Applicant shall inform his prospective residential address to the trial Court. The Applicant shall keep informed the trial Court of any change in his residential address and his mobile number, on which he can be contacted.

(v) Applicant shall make himself available at the time of final hearing of the Appeal.

(8) Interim Application is allowed in the aforesaid terms.

(SHYAM C. CHANDAK, J.)

(A.S. GADKARI, J.)

RAJESH
VASANT
CHITTEWAN

Digitally signed
by RAJESH
VASANT
CHITTEWAN
Date: 2024.04.10
14:36:56 +0530