

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****INTERIM APPLICATION NO. 2306 OF 2023****IN****CRIMINAL APPEAL NO. 826 OF 2021**

Riyaj alias Kalya Sadaru Desai

... Applicant/Appellant

V/s.

The State of Maharashtra

... Respondent

Mr. Kedar J. Patil a/w. Mr. Pratik Tare, Ms. Sakshi Kadam & Mr. Prajay Kutkar
for Applicant/Appellant.

Ms. A.A. Takalkar, A.P.P. for Respondent-State.

Mr. Aliabbas Delhiwala, Appointed Adv. for Appellant in Appeal/816/2021.

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

DATE : 29th February 2024.

PC. :

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

2) Admittedly the Applicant is behind bars since the date of his arrest i.e. 4th February 2014 and as of today has undergone more than 10 years in incarceration. Record indicates that, the co-accused Nos.5, 6, 7, 8 & 9 have already been released on bail by this Court.

3) In view of the Guidelines issued by the Hon'ble Supreme Court in the case of Saudan Singh Vs. The State of Uttar Pradesh in Criminal Appeal No. 308 of 2022 [@ SLP (Crl.) No. 4633 of 2021], dated 25th February 2022 and the view expressed in cases of (i) Suleman Vs. The State of Uttar Pradesh,

Criminal Appeal No. 491 of 2022 (Arising out of SLP (Crl) No. 1451 of 2022) dated 25th March 2022 and (ii) Dinesh @ Paul Daniel Khajekar Vs. State of Maharashtra & Anr., Criminal Appeal No. 2987 of 2023 (Arising out of S.L.P (Crl.) No. 10320 of 2023) dated 25th September 2023, the Applicant is entitled to be released on bail during the pendency of Appeal.

4) Hence, the following Order :-

- (i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.
- (ii) The Applicant shall report to the trial Court, once in three months on the day/date specified by the trial Court, till the appeal is finally disposed off.
- (iii) The Applicant shall keep the trial Court informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time.
- (iv) If there are two consecutive defaults in appearing before the trial Court, the learned Judge shall make a report to the High Court and the prosecution would be at liberty to file an application seeking cancellation of bail.
- (v) The Application is allowed in the aforesaid terms subject to the Applicant depositing the fine amount as directed vide the impugned Judgment and Order dated 6th March 2021 passed by the learned Sessions Judge, Kolhapur.

5) All concerned to act on the authenticated copy of this Order.

(SHYAM C. CHANDAK, J.)

(A.S. GADKARI, J.)