

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

INTERIM APPLICATION NO.3618 OF 2023

(For Bail)

IN

CRIMINAL APPEAL NO.436 OF 2020

Samadhan Vasant Gholve

...Applicant

Versus

State of Maharashtra and Anr.

...Respondents

Ms. Vrushali Maindad, for the Applicant.

Ms. P. P. Shinde, A.P.P for the Respondent No.1-State.

***CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, JJ.***

DATE : 1st AUGUST 2024

P.C. :

1. This is the second application preferred by the applicant seeking suspension of his sentence and enlargement on bail, pending the hearing and final disposal of his aforesaid appeal. The applicant's first application was rejected on merits by this Court (Coram: Smt. Sadhana S. Jadhav & N.R. Borkar, JJ.) vide order dated 10th March 2021. The said order is at page 80 of the application. Since Hon'ble Smt. Justice Sadhana S. Jadhav, has retired since then and Hon'ble Shri

Justice N. R. Borkar is presently sitting at Nagpur Bench, the aforesaid application is taken up for admission, by us.

2. Heard learned counsel for the parties.

3. By this application, the applicant seeks suspension of his sentence and enlargement on bail, pending the hearing and final disposal of the aforesaid appeal.

4. The applicant alongwith other co-accused, vide Judgment and Order dated 17th March 2020, passed by the learned Additional Session Judge, Barshi, in Sessions Case No. 41 of 2016, has been convicted and sentenced for the offence punishable under Section 302 r/w Section 149 of the Indian Penal Code and several other offences. As far as the offence punishable under Section 302 r/w Section 149 of the Indian Penal Code is concerned, the applicant has been sentenced to suffer imprisonment for life and to pay a fine of Rs.20,000/, in default, to suffer further two years simple imprisonment.

5. Learned Counsel for the applicant seeks bail on the ground of parity. She submits that similarly placed co-accused i.e. Vijay Anna Late (Original Accused No.2), his sentence has been suspended and he has been enlarged on bail by the Apex Court vide order dated 17th February 2023.

6. Learned APP does not dispute that the role of the applicant is similar to that of the co-accused – Vijay Anna Late, whose sentence has been suspended and who has been enlarged on bail by the Apex Court vide order dated 17th February 2023.

7. Perused the papers. The applicant's first application was rejected on merits vide order dated 10th March 2021. It appears from the said order that the applicant alongwith two other co-accused had inflicted stick blows on the deceased and his parents, resulting in the death of the deceased and injuries to the deceased parents, and hence his bail was rejected. This Court whilst deciding the application of the applicant was also dealing with the applications for suspension of

sentence and enlargement on bail of all the other co-accused in the said case, including that of co-accused – Vijay Anna Late. It is not in dispute that the Apex Court vide order dated 17th February 2023 enlarged co-accused – Vijay Anna Late, on bail, on the ground that he had suffered long incarceration of about seven years and as the appeal before this Court would take some time. The role of the applicant is similar to that of co-accused – Vijay Anna Late. The present applicant is in custody for more than eight years.

8. Considering the aforesaid, the application is allowed and the applicant's sentence is suspended and the applicant is enlarged on bail, pending the hearing and final disposal of the aforesaid Appeal, on the following terms and conditions:-

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 four months on the day/date specified by the trial Court, till the appeal is finally disposed of;
- iii) The applicant shall keep the trial Court informed of the 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.

9. The Application is allowed in the aforesaid terms and is accordingly disposed of.

All concerned to act on the authenticated copy of this order.

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.