

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

***INTERIM APPLICATION NO.4014 OF 2023
IN
CRIMINAL APPEAL NO.99 OF 2020***

Anil Bichkar Applicant

Versus

The State of Maharashtra Respondent

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Mr.Vaibhav R. Gaikwad a/w. Mr.Atharva R.B., Mr.Yash Naik and
Ms.Saisha Pisal, Advocate for the Applicant / Appellant.

Mr.V.B. Konde – Deshmukh, Addl. P.P. for Respondent – State.

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***CORAM REVATI MOHITE DERE &
 : MANJUSHA DESHPANDE, JJ.***

DATE : 30th JANUARY 2024

P.C. :

Heard learned counsel for the parties.

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

3 The applicant *vide* judgment and order dated 21 September 2019, passed by the learned Sessions Judge, Satara, in Sessions Case No.71 of 2016, has been convicted for the offence punishable under Section 302 of the Indian Penal Code (IPC) and is sentenced to suffer imprisonment for life and to pay fine of Rs.1,000/- (Rupees One Thousand only). In default of payment of fine, the applicant is directed to suffer further simple imprisonment for 15 days.

4 Perused the papers. The applicant is the husband of Manjiri (deceased), who sustained burn injuries on 16 January 2016. It appears that there are two dying declarations recorded by the police; i.e. one, on the day of incident i.e. on 16 January 2016, in which Manjiri (deceased) has stated that her synthetic gown caught fire because of the lamp. The said dying declaration is recorded by the Executive Magistrate in which she has not implicated the applicant; and the second dying declaration, which was recorded on 26 January 2016, in which Manjiri (deceased) has disclosed to the contrary. In the second dying declaration, Manjiri

has stated that the applicant under the influence of alcohol was harassing her to have physical relations, and when she refused, he poured kerosene on her person and set her ablaze with a lamp, as a result of which she sustained burn injuries. Thus, *Prima facie*, there is inconsistency in the dying declarations.

5 It is not in dispute, that the applicant was on bail during trial, and, has not misused the conditions of the bail. The Appeal is of the year 2022, and the applicant is in custody since 2020.

6 Considering the aforesaid, the application is allowed and the applicant's sentence is suspended and he is enlarged on bail, pending the hearing and final disposal of his 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 his Appeal is finally disposed of;
- 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.

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

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

MANJUSHA DESHPANDE, J. ***REVATI MOHITE DERE, J.***