

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

***INTERIM APPLICATION NO.4332 OF 2024
IN
CRIMINAL APPEAL NO.215 OF 2020***

Shahanshah Yasin Mujawar Applicant

Versus

The State of Maharashtra Respondent

***WITH
CRIMINAL APPEAL NO.446 OF 2019***

Sangram Raghunath More and Anr. Appellant

Versus

The State of Maharashtra Respondent

***WITH
CRIMINAL APPEAL NO.1093 OF 2022***

Akash Arvind Pawar Appellant

Versus

The State of Maharashtra Respondent

***WITH
CRIMINAL APPEAL NO.215 OF 2020***

Shahanshah Yasin Mujawar Appellant

Versus

The State of Maharashtra Respondent

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Mr.Siddharth Jagushete, Advocate for the Applicant in IA 4332 of 2024.

Mr.S.V. Gavand, APP for Respondent – State.

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***CORAM : BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ.***

DATED : 23rd OCTOBER 2024.

P.C. :

1. Heard Mr.Jagushete for the Applicant, who has approached this Court on the second occasion, since the earlier Application filed by him in Criminal Application No.215 of 2020, seeking suspension of sentence and grant of bail (IA 1790 of 2019), was rejected.

While rejecting his claim, reliance was placed upon the evidence of P.W.9, who claim to be an eye witness to the incident who deposed about the presence of the Applicant alongwith the other co-accused in the commission of offence and the circumstance that deceased Samir was carried by the Applicant alongwith other co-accused, recording that strong evidence is on record reflecting the involvement of the Applicant in the commission of offence has surfaced, the prayer of suspension of sentence was declined.

2. Mr.Jagushete has invited our attention to an order passed by this Court (Coram : Bharati Dangre and Manjusha Deshpande, JJ.) on 02.07.2024, in case of ***Akash Arvind Pawwar Vs. The State of Maharashtra and Anr.***, who took out an Application for suspension of sentence in his pending Appeal No.1093 of 2022, upon being convicted for the offence punishable under Sections 302, 201, 364, 143, 147 and 148 read with Section 149 of the Indian Penal Code (IPC) in Sessions Case No.9 of 2016.

3. By a detailed order, where we appreciate the testimony of P.W.1 and P.W.9, and by specifically referring to the admissions surfacing on record through their cross-examination, and by specifically taking note of the contradiction that is surfaced on record through the evidence of these two witnesses, we concluded thus:

“6. As far as the recovery of dead body is concerned, the same is not proved, as the panchas did not support the case of the prosecution. Similar is the case of the recovery of motorcycle. Moreover, the prosecution has not brought any CDR of record, and there is no conclusive proof of recovery. There is also some inconsistency in ascertaining the actual time of death.”

4. We see no reason why the benefit of the order shall not be extended to the present Applicant as we have recorded infirmities in the case of the prosecution and in specific the admission given by the witness that since it was dark, he could not see clearly and a further admission that he has not personally seen the assault on Samir, and he was unaware as to how he died, as P.W.1 has specifically admitted to the above effect. Since the Appeal of the Applicant / Appellant is already admitted, and it may take considerable time for its final hearing, we deem it appropriate to release the Applicant on bail by suspending the sentence imposed on him by imposing certain terms and conditions

Hence, we pass the following order:

Rajeshri Aher

:: ORDER ::

- (i) Interim Application No.4332 of 2024, is allowed;
- (ii) The sentence imposed upon the applicant *vide* the impugned Judgment dated 18.02.2019 in Sessions Case No.09 of 2016, is hereby suspended during the pendency of the Appeal;
- (iii) The applicant Shahanshah Yasin Mujawar shall be released on bail in connection with C.R. No.149 of 2015 (SC No. 09/2016) registered with Ashta Police Station, Sangli, on furnishing P.R. bond to the extent of Rs.25,000/- with one or more sureties of the like amount;
- (iv) The Applicant shall report to the concerned Police Station on first Saturday of every three months between 05:00 p.m. to 06:00 p.m.;
- (v) Upon release, the Applicant shall furnish his contact number and permanent residential address to the Investigating Officer and shall keep him updated in case of any change.

(*MANJUSHA DESHPANDE, J.*)**(*BHARATI DANGRE, J.*)**