

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****INTERIM APPLICATION NO. 4646 OF 2023****IN****CRIMINAL APPEAL NO. 727 OF 2019**

Satish Ashok Pawar

... Applicant

V/s.

The State of Maharashtra & Anr.

... Respondents

Mr. Priyal G. Sarda a/w Mr. Shubham Sane for Applicant.

Ms. A.A. Takalkar, APP for Respondent No.1-State.

**CORAM : A. S. GADKARI AND
SHYAM C. CHANDAK, JJ.****DATE : 12th February 2024****P.C. :**

- 1) This is an application for suspension of sentence and releasing on bail by the original Accused No.2.
- 2) Heard Mr. Sarda, learned counsel for Applicant and Ms. Takalkar, learned A.P.P. for Respondent No.1-State. Perused record.
- 3) Mr. Sarda, learned Advocate for Applicant submitted that, the co-accused, i.e. Accused Nos.5, 6, 9, 12 and 15 have been directed to be released on bail by this Court by its Order dated 1st November 2023. That, the role attributed to the said accused persons and the Applicant, is same and similar, as all the said accused persons have been charged with Section 149 of the Indian Penal Code. He pointed out that, the only difference of role between the said accused and the present Applicant, is role of wielding

weapon of assault, i.e. an iron rod. He therefore prayed that, Applicant be released on bail on the ground of parity.

4) Learned APP after perusing the record fairly conceded to the fact that, Applicant is entitled for bail on the ground of parity.

5) Perusal of record *prima facie* indicates that, the role attributed to Accused Nos.5, 6, 9, 12 and 15, is the same and or similar to that assigned to the present Applicant. Applicant is also convicted under Section 302 read with Section 149 of the Indian Penal Code.

6) Perusal of record indicates that the, Applicant is entitled to be released on bail on the ground of parity. Applicant is behind bars since 5th May, 2014 and as of today, has undergone more than 9 years and 6 months in incarceration as of today.

7) 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.

8) Hence, the following Order.

- (i) Applicant-original Accused No.2 shall be released on bail in Sessions Case No. 181/2014, arising out of CR No. 68 of 2014 registered with Vairag Police Station, District Solapur, on his furnishing P.R. bond of Rs.25,000/- with one or two 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 Vairag Police Station, District Solapur, on every first Monday of the month between 10:00 am and 12:00 noon initially for a period of one year.

After end of one year, the Applicant shall attend Vairag Police Station, District Solapur, on every first Monday of the every 3rd Month between 10:00 am and 12:00 noon. The Applicant thus shall attend Vairag Police Station, District Solapur, 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 bail.
- (iv) Applicant shall inform his prospective residential address to the trial Court. Applicant shall keep informed the trial Court 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.

9) Interim Application is allowed in the aforesaid terms.

(SHYAM C. CHANDAK, J.)

(A.S. GADKARI, J.)