

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

***INTERIM APPLICATION NO.189 OF 2024
IN
CRIMINAL APPEAL NO.1408 OF 2018***

Jaydrath Pralhad Kakade ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Ganesh Gole i/b Mr. Ateet Shirodkar, for the Applicant.

Ms. P. P. Shinde, A.P.P for the Respondent – State.

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

DATE : 5th APRIL 2024

P.C. :

1. 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 19th September 2018, passed by the learned Additional Sessions Judge,

Nashik, in Sessions Case No. 240 of 2015, has been convicted for the offences punishable under Sections 302 r/w 34 of the Indian Penal Code ('IPC'); Section 326 r/w 34 of the IPC; Section 504 r/w 34 of the IPC and Section 506 r/w 34 of the IPC. The maximum sentence imposed is for the offence punishable under Section 302 r/w 34 of the IPC which is to suffer rigorous imprisonment for life. All sentences imposed under the other sections of the IPC, have been directed to run concurrently.

4. Perused the application. Bail is sought on the ground of parity with co-accused-Dhananjay @ Sonu Jaydrath Kakade, who has been enlarged on bail by this Court (Coram: Nitin W. Sambre & N. R. Borkar, JJ.) vide order dated 31st October 2023. The said order is at Exhibit - 'C' on page 149 of the application.

5. In para 5 of the said order, it was observed as under;

“5. The testimony of doctor discloses that the deceased died of single chest injury, whereas non-specific and general allegations against the accused Nos.1 to 3 of assaulting the deceased by

iron rod on the chest are made. Considering the cause of death of single chest injury and the general allegations against applicant along with his brothers of assaulting the deceased, we are of the view that the applicant, who has already undergone imprisonment of more than eight years, deserves to be released.”

6. As far as the applicant is concerned, he is alleged to have assaulted with an iron rod alongwith other three accused. The applicant is in custody for more than 8 years. Thus, there is parity with co-accused-Dhananjay @ Sonu Jaydrath Kakade, who has been released by this Court vide order dated 31st October 2023, inasmuch as, the applicant has also undergone imprisonment of more than 8 years.

7. Considering the aforesaid, the application is allowed and the applicant's sentence is suspended and he is enlarged on bail 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 three 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.

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

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

MANJUSHA DESHPANDE, J.

REVATI MOHITE DERE, J.