

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

***INTERIM APPLICATION NO.667 OF 2024
(For Bail)
IN
CRIMINAL APPEAL NO. 213 OF 2020***

Kalim Yunus @ Nana Multani ... Applicant

Versus

The State of Maharashtra & Ors. ... Respondents

Mr. Chetan S. Damre for the Applicant

Mr. R. M. Pethe, A.P.P for the Respondent No.1-State

None for the Respondent Nos. 2 and 3

**CORAM : REVATI MOHITE DERE &
MANJUSHA DESHPANDE, JJ.
THURSDAY, 14th MARCH 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 30th September 2019, passed by learned Additional Sessions Judge, Niphad in Sessions Case No. 56/2017, has been convicted and sentenced as under:

- for the offence punishable under Section 302 r/w 34 of the Indian Penal Code, to suffer rigorous imprisonment for life and to pay fine of Rs.10,000/-, in default, to suffer further rigorous imprisonment for 1 year;
- for the offence punishable under Section 120B of the Indian Penal Code, to suffer rigorous imprisonment for life and to pay fine of Rs.10,000/-, in default, to suffer further rigorous imprisonment for 1 year;
- for the offence punishable under Section 404 r/w 34 of the Indian Penal Code, to suffer rigorous imprisonment for 1 year and to pay fine of Rs.5,000/-, in default, to suffer further rigorous imprisonment for 2 months.

 All the aforesaid sentences were directed to run concurrently.

4 Perused the papers with the assistance of the learned counsel for the applicant and the learned A.P.P. Admittedly, the prosecution case rests entirely on circumstantial evidence. As far as the applicant is concerned, the circumstance *qua* him is recovery of an iron bar from a nullah and recovery of Rs.1,500/- from one onion shed. Apart from this, there is no other evidence pointed out by the learned A.P.P. From the evidence of PW6, a Panch witness to the recovery of an iron bar and money, it is evident that the said witness has turned hostile.

5 Learned counsel for the applicant seeks bail on the ground of parity. He submits that the similarly placed co-accused Bashir Ansari and Shahrukh Multani's sentences have been suspended and they have been enlarged on bail. The applicant is in custody for about 6½ years.

6 Considering the only evidence as stated 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 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 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.

7 The application is allowed in the aforesaid terms and is accordingly disposed of.

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

MANJUSHA DESHPANDE, J. REVATI MOHITE DERE, J.