

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

**INTERIM APPLICATION NO. 866 OF 2024
IN
CRIMINAL APPEAL NO.878 OF 2023**

Rajesh Siddharam Boda

.. Applicant

v/s.

The State Of Maharashtra

.. Respondent

Mr. Gaurav Bhawnani i/b. Khan Abdul Wahab for the Applicant.

Ms. A.A.Takalkar, APP for the Respondent-State.

CORAM : A. S. GADKARI &

SHYAM C. CHANDAK, JJ.

DATE : 15th MARCH, 2024.

PC. :

1) This is an Application for suspension of sentence and releasing the Applicant on bail. The Applicant alongwith accused No.3 Smt.Sulochana Dhanaraj Badgery, sister of Applicant, are convicted under Section 302 r/w. 34 of India Penal Code by the learned Additional Sessions Judge, Sessions Court Greater Mumbai, in Sessions Case No.722/2018 and are directed to suffer rigorous imprisonment for life.

2) Learned Advocate for the Applicant submitted that, the co-accused viz. Sulochana D. Badgery has been directed to be released on bail by the Co-ordinate Bench of this Court by its Order dated 5th December 2023. That, the role attributed to the co-accused Sulochana is same and/or

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similar and therefore Applicant may be released on bail on the ground of parity.

3) Perusal of record indicates that, the case of prosecution is based on circumstantial evidence. The Applicant and co-accused have been convicted on the basis of the medical evidence and as contemplated under Section 106 of the Indian Evidence Act, as the Applicant and co-accused were found in the house lastly in the company of deceased, Smt.Babita. Record indicates that, there is substance in the submission of learned Advocate for Applicant that, the principal of parity is applicable to the Applicant alongwith Smt. Sulochana Badge.

3.1) The Applicant is behind the bars since his date of arrest i.e. 8th March 2018 and as of today has undergone approximately 6 years in incarceration.

4) In view of the above during the pendency of the present Appeal, sentence imposed upon the Applicant is suspended and he is enlarged on bail on the following terms and conditions:-

- i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.20,000/- 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.
- 5) Interim Application is allowed in the aforesaid terms and accordingly disposed off.
- 6) All concerned to act on the authenticated copy of this order.

(SHYAM C. CHANDAK, J.)

(A. S. GADKARI, J.)