

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****INTERIM APPLICATION NO.1233 OF 2024****IN****CRIMINAL APPEAL NO.729 OF 2017**

Faruq Ismile Khan

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. Aniket Vagal a/w Mr. Divesh Mehani, Savvy Kolhekar and Kunal N. Pednekar for Applicant.

Dr. Dhanalakshmi Iyer, A.P.P. for Respondent-State.

**CORAM : A. S. GADKARI AND
SHYAM C. CHANDAK, JJ.**

DATE : 3rd APRIL 2024

P.C. :

(1) This is a successive Application for suspension of sentence and releasing the Applicant on bail.

(2) Earlier application preferred by Applicant was dismissed by an Order dated 11th January 2018.

(3) It is an admitted fact on record that, since date of his arrest, i.e. 8th August, 2011, Applicant is behind bars and as of today has undergone approximately 12 years and 8 months in incarceration.

(4) Record further indicates that, co-accused Banu @ Kalibai Ismile Khan has been released on bail by the co-ordinate Bench by its Order dated 22nd December, 2023, on the ground of prolonged in incarceration.

(5) In view of the guidelines issued by the Hon'ble Supreme Court in the case of Saudan Singh v/s. 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 v/s. 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 v/s. 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.

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

(i) The Applicant shall be released on bail in Sessions Case No.235 of 2011 arising out of C.R.No.65/2011 registered with Deolali Camp Police Station, District Nashik, on his furnishing P.R. bond in the sum of Rs.25,000/- each with one or two separate 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 Deolali Camp Police Station, District Nashik, on every first Monday of the month

between 10.00 a.m. and 12.00 noon initially for a period of one year.

After end of one year, the Applicant shall attend Deolali Camp Police Station, District Nashik, on every 1st Monday of every 3rd Month between 10:00 a.m. and 12:00 noon. The Applicant thus shall attend Deolali Camp Police Station, District Nashik, 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 his bail.

(iv) Applicant shall inform his prospective residential address to the trial Court. The Applicant shall keep informed the trial Court of 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.

(7) Interim Application is allowed in the aforesaid terms.

(SHYAM C. CHANDAK, J.)

(A.S. GADKARI, J.)