

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

**INTERIM APPLICATIN NO.1666 OF 2021
IN
CRIMINAL APPEAL NO. 629 OF 2021**

Mukesh Mahadev Musahar .. Applicant
v/s.
The State Of Maharashtra And
Anr. .. Respondents

**WITH
CRIMINAL APPEAL NO.752 OF 2022**

Avinash Bhushan Pimpalkar @ Raju .. Appellant
Vs
The State Of Maharashtra .. Respondent

Ms. Prachiti Kandre i/b. Mr.Dattatray Solankar for the Applicant.
Mr. S.V. Gavand, APP for the Respondent-State.
Ms. Janhavi Karnik for Appellant in Appeal No.752/2022.

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**CORAM : A. S. GADKARI &
SHYAM C. CHANDAK, JJ.
DATED : 26th FEBRUARY, 2024.**

P.C. :

- 1) This is an Application for suspension of sentence and releasing the Applicant/original accused No.2 on bail.
- 2) Heard Ms.Kandre, learned counsel for the Applicant and Mr.Gavand, learned APP for the State. Perused the record.
- 3) Applicant is convicted under Section 302, 201 r/w. 34 of Indian Penal Code alongwith accused No.1-Avinash Pimpalkar and

sentenced to suffer imprisonment for life by the learned Additional Sessions Judge, Greater Mumbai by its Judgment and Order dated 12th January 2018.

4) Evidence on record indicates that the deceased lady was aged about 50-60 years. Her name was not known to anybody as she was homeless and was residing on Platform No.18 of Chhatrapati Shivaji Maharaj Terminus, Mumbai. The Applicant and co-accused Avinash both were vagabond and were also residing on the platform No.18 of C.S.M.T. Station being homeless persons.

5) It is the prosecution case that, in the midnight of 12th March 2016, i.e., approximately after 12.00 hours the PW No.3 who was also staying on Platform No.16 of same station witnessed that, the Applicant alongwith co-accused Avinash were in the company of said deceased lady and were proceeding towards the bathroom situated near the Railway Court. The co-accused Avinash took the said old lady behind bathroom and Applicant followed her. The said witness was at the said spot for about half an hour, however none of the two accused persons came out of the said place. PW No.3 thereafter went to sleep on the said platform. In the morning of 25th March 2016 at about 8.30 a.m.

5.1) PW No.2 saw deadbody of unknown lady lying behind the bathroom in naked condition and a saree was thrown on her body. She immediately informed the said fact to the watchman of Railway Court

and also gave a telephone call to the police on 100 number.

5.2) The PW No.2 has stated that, many drug addict persons roam around in the said vicinity during the night and therefore she did not open door to go out even after hearing shouts by people. She has categorically deposed that in the night at about 2.00 a.m. her mother had heard shouts/screams of a lady saying in Marathi language that, “Maru naka, mala soda”.

6) There are strong circumstances against the Applicant of last seen together with the deceased and co-accused by PW No.3 coupled with the fact that the deadbody of the victim was immediately on next day early in the morning was found near the same place.

7) In view of the above we are not inclined to release the Applicant on bail. Application is accordingly dismissed.

8) As we have rejected the Application for bail of the Applicant, place the present Appeal alongwith Criminal Appeal No.752/2022 on final hearing board for the week commencing from 24th June 2024.

(SHYAM C. CHANDAK, J.)

(A. S. GADKARI, J.)