

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

INTERIM APPLICATION NO. 1984 OF 2023

Lahanu Vasant Dalvi

.... Applicant

Versus

State of Maharashtra

.... Respondent

Dr. Yug Mohit Chaudhry a/w Mr. Anush Shetty, for the Applicant.

Mr. K. V. Saste, Addl.P.P., for the Respondent-State.

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

DATED : 16th 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 22nd December 2020 passed by the learned Additional Sessions Judge, Palghar, in Sessions Case No. 60 of 2017 has been convicted for

the offence punishable under Section 302 of the Indian Penal Code (IPC) and is sentenced to suffer imprisonment for life.

4. Learned counsel for the applicant submits that taking the prosecution case as it stands, the offence would be one under Section 304 Part II and not one under Section 302 of the IPC. He submits that the facts would reveal that the applicant assaulted the deceased due to provocation, since the deceased had physically assaulted the applicant's sister- Amita, who was in a live in relationship with the deceased. He submitted that even earlier the deceased had killed the applicant's other sister- Savy, however, no case was registered as against the deceased then. Learned counsel for the applicant submits that it is a case of single blow, with a wooden log on the deceased's head, which appears to be the cause of death. He submits that the applicant has already undergone 7 years of actual imprisonment, and as such, the applicant be released on bail. Learned counsel for the applicant further submitted that earlier this Court had directed that the appeal be listed for final hearing in 2023, since the applicant was unable to furnish sureties, even if granted bail. However, today learned

counsel for the applicant states that the applicant be released on cash bail, i.e. without sureties.

5. Learned A.P.P. opposes the application.

6. Perused the application. The applicant is the brother-in-law of the deceased. It appears from the prosecution case that the deceased had physically assaulted the applicant's sister – Amita, who was in a live in relationship with the deceased, after the demise of Amita's sister, who was married to the deceased. It appears that the applicant on learning of the assault by the deceased on Amita, went to the deceased's house with a wooden log and assaulted him with the same, as a result of which, the deceased succumbed to the injury. *Prima facie*, there is substance in the submission of the learned counsel for the applicant that the offence would be a lesser offence. The appeal is of the year 2022, and if taken serially, is not likely to come up in the immediate near future.

7. The applicant comes from a tribal area and since was unable to furnish sureties even if granted bail, learned counsel for the

applicant had requested that the appeal be fixed for final hearing. We are presently not in a position to hear the aforesaid appeal and hence we heard the aforesaid Interim Application seeking bail. Today, learned counsel for the applicant states that efforts will be made to arrange for cash bail of Rs.5,000/- in the event, the applicant is released on bail.

8. Considering what is stated hereinabove, 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 cash bail in the sum of Rs.5,000/- (Five Thousand only);
- ii) The applicant shall report to the trial Court, once in six months on the day/date specified by the trial Court, till the 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.

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

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

MANJUSHA DESHPANDE, J.

REVATI MOHITE DERE, J.