

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

**INTERIM APPLICATION NO.2209 OF 2023
IN
CRIMINAL APPEAL NO.691 OF 2023**

Najim Salim Khan	.. Applicant
vs.	
The State of Maharashtra	.. Respondent

Mr. Gaurav Bhawnani i/b Khan Abdul Wahab for the Applicant.
Mrs. A.A. Takalkar APP for the Respondent-State.
Mr. Mithbarkar, PSI, Andheri Police Station present.

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

DATE : 9th JANUARY, 2024.

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

Applicant is convicted under Sections 302 read with 34 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for life and pay fine of Rs.5,000/- by the learned Additional Session Judge, Borivali Division, Dindoshi, Mumbai.

2) Heard learned Counsel for the Applicant and learned A.P.P for the Respondent-State.

3) Learned Counsel for the Applicant submitted that, the co-

accused i.e. Farhan Salim Khan has been granted bail by this Court by its Order dated 13th December, 2023. He submitted that the role attributed to the Applicant is same and/or similar to that assigned to Farhan Salim Khan i.e. Original accused No.3 and therefore the Applicant may be released on the ground of parity.

4) Learned A.PP after perusing the record fairly conceded to the said fact.

5) Perusal of the record indicates that, the role attributed to the Applicant (*sic. Nawab*) is that, he along with co-accused Farhan had held the deceased when the accused No.1 Mohammad Salim had inflicted blows of knife in the abdomen of deceased. There is no recovery or any other material qua the Applicant apart from the same. Co-accused-Farhan Salim Khan has been released on bail, is having similar circumstances against him. In view thereof the Applicant deserves to be released on bail on the ground of parity.

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

i) Applicant be released on bail in Sessions Case No.229 of 2018 arising out of C.R. No.212 of 2018 registered with Andheri Police Station, Mumbai

on his furnishing P.R. Bond of Rs.25,000/- with one or two sureties to make up the amount.

ii) Applicant shall report to the trial Court, once in four months on the day/date specified by the trial Court, till his Appeal is finally disposed off.

iii) 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) Application is allowed in the aforesaid terms.

(SHYAM C. CHANDAK,J.)

(A. S. GADKARI, J.)