

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

**INTERIM APPLICATION NO. 2725 OF 2023
IN
CRIMINAL APPEAL NO. 817 OF 2023**

Ramprasad Dipchand Prajapati @ Raghu

.. Applicant
Ori.Appellant

vs.

State of Maharashtra & Anr.

.. Respondents

Mr. Gaurav Bhavnani i/b. Mr.Khan Abdul Wahab for the Applicant.
Mr. S.V.Gavand, APP for the Respondent No.1-State.

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

DATE : 23th JANUARY, 2024.

P. C.:-

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

2) Applicant is convicted under Sections 302,307,342, 504 r/w. 34 of Indian Penal Code (for short 'IPC') by the learned Additional Sessions Judge, Mumbai in Sessions Case No.473 of 2018 and is sentenced to suffer life imprisonment.

3) It is the case of the prosecution that the deceased Bindu Prajapati was neighbor of Applicant/Accused No.1. The deceased was on friendly terms with the sister of the Applicant and he used to talk with her for long hours on the phone. The Applicant disliked it and it is the motive

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behind the commission of the present crime.

3.1) It is alleged that, on 11th April 2018 at about 7.30p.m. the Applicant alongwith other two co-accused entered into the house of deceased and assaulted him with wooden rod. The deceased came out of the house in injured condition and fell on the floor. He was initially taken to Shatabdi Hospital, Mumbai and thereafter to Lokmanya Tilak Hospital at Sion. The victim succumbed to the injuries on 23rd April, 2018, while undergoing treatment.

4) Dr.Madhuri Chavan (PW 10) conducted the autopsy on the dead body of Bindu Prajapati. She opined the cause of death was due to Septicaemia following head injury-unnatural. There are 5 eyewitnesses to the present crime. However, nobody has seen the actual assault committed by any of the accused persons on the victim. As noted earlier the victim passed away after about 12 days, while undergoing treatment.

5) It prima facie appears that, with a view of admonish the victim the Applicant and other accused persons entered into his house and assaulted him with wooden rod. There was no intention of present applicant and other accused persons to commit murder of Bindu Prajapati as contemplated under Section 302 of IPC and instead their act may fall within the purview of Section 304 (Part II) of the IPC.

7) In view of the above and during the pendency of Appeal, we are inclined to suspend the substantive sentence imposed upon the Applicant and to release him on bail .

Hence, the following order :

(i) Applicant shall be released on bail in Sessions Case No. 473 of 2018, on his furnishing P.R. bond of Rs.25,000/- with one or two 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 Trombay Police Station, Mumbai on every first Monday of the month between 10:00 am and 12:00 noon initially for a period of one year.

After end of one year, the Applicant shall attend Trombay Police Station, Mumbai on every first Monday of the every 3rd Month between 10:00 am and 12:00 noon. The Applicant thus shall attend Trombay Police Station, Mumbai, 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 bail.

8) Application is allowed in the aforesaid terms.

(SHYAM C. CHANDAK,J.)

(A. S. GADKARI, J.)