

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****INTERIM APPLICATION NO. 3025 OF 2023****IN****CRIMINAL APPEAL NO. 69 OF 2019**

Ganesh Hambirrao Gaikwad

... Applicant

V/s.

The State of Maharashtra

... Respondent

Dr. Yug Mohit Chaudhry for Applicant.

Mr. J.P. Yagnik, APP for Respondent-State.

**CORAM : A. S. GADKARI AND
SHYAM C. CHANDAK, JJ.****DATE : 12th February 2024****P.C. :**

- 1) This is an application for suspension of sentence and releasing on bail by the Applicant.
- 2) Heard Mr. Chaudhry, learned counsel for Applicant and Mr. Yagnik, learned A.P.P. for Respondent-State. Perused record.
- 3) Applicant has been convicted under Section 302 of the Indian Penal Code by trial Court. The evidence against the Applicant is circumstantial in nature.
- 4) Learned Advocate for the Applicant submitted that, the conviction of Applicant is mainly based on an extra judicial confession given by him to Police Officer, at the time of his arrest in the presence of PW.3.
- 5) Applicant is behind bars since the date of his arrest, i.e. 24th

March, 2013 and as of today has undergone approximately 10 years and 11 months in incarceration.

6) In view of the guidelines issued by the Hon'ble Supreme Court in the case of Saudan Singh Vs. 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 Vs. 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 Vs. 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.

7) Hence, the following Order.

- (i) Applicant shall be released on bail in Sessions Case No. 50/2013, arising out of CR No. 37 of 2013 registered with Islampur Police Station, District Sangli, 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 Islampur Police Station, District Sangli, 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 Islampur Police Station, District Sangli, on every first Monday of the every 3rd Month between 10:00 am and

12:00 noon. The Applicant thus shall attend Islampur Police Station, District Sangli, 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.
- (iv) Applicant shall inform his prospective residential address to the trial Court. Applicant shall keep informed the trial Court 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.

8) Interim Application is allowed in the aforesaid terms.

(SHYAM C. CHANDAK, J.)

(A.S. GADKARI, J.)

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CHITTEWAN

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