

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

**INTERIM APPLICATION NO. 3455 OF 2022
IN
CRIMINAL APPEAL NO. 137 OF 2019**

Mithun Subhash Rathod Applicant
v/s.

The State of Maharashtra Respondent

Mr. Veerdhawal Deshmukh i/b. Mr. Konde Deshmukh for the
Applicant/Appellant.

Mr. S.V. Gavand, APP for the State.

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

DATED : 12th MARCH, 2024.

P. C. :-

1) At the outset, learned counsel for the Applicant submitted that, the Applicant No.2 is reported to be dead and seeks leave to delete the Applicant No.2 from the array of the Applicants.

1.1) Leave granted.

1.2) Amendment be carried out forthwith and in any event during the course of the day.

2) This is an Application for suspension of sentence and for enlargement of Applicant on bail.

3) The Applicant is convicted for offences punishable under Sections 201, 302, 323, 498-A, 504, 506 read with 34 of the Indian Penal Code. The name of the deceased is Priyanka Rathod, the wife of the

Applicant. It is the prosecution case that, on 22nd December, 2014 the Applicant committed murder of Priyanka (deceased) at his residential house and created a scene that, Priyanka committed suicide by hanging. Applicant himself called PW-1 i.e., the father of Priyanka (deceased) and informed the alleged fact of hanging by her to him.

3.1) The prosecution case is based on circumstantial evidence.

3.2) The first circumstance is that, the deceased was found dead in her matrimonial home within a period of 07 months from the date of her marriage. The deceased married with the Applicant on 08th May, 2014 and she found dead in her matrimonial home on 22nd December, 2014.

3.3) The other circumstance propounded by the prosecution against the Applicant is that, a piece of rope allegedly used for strangulation of Priyanka was recovered under Section 27 of the Evidence Act at the behest of the Applicant.

3.4) Record prima facie indicates that, the defence witness examined by the Applicant has stated that, on the date and time of the alleged incident, the Applicant was plying tractor in the agricultural field in his village. However, the trial Court has not accepted the said evidence for the reasons stated in the impugned Judgment and Order. Applicant as of today, has undergone approximately 09 years and 03 months in incarceration.

4) In view of the above, during the pendency of the present

Appeal, we are inclined to suspend the sentence of the Applicant and release him on bail.

4.1) Hence, the following Order :-

(i) Applicant shall be released on bail in Sessions Case No.93/2015 arising out of C.R.No.99 of 2014 registered with Mohol Police Station, Solapur on his furnishing P.R. bond in the sum 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 Mohol Police Station, Solapur on every first Monday of the month between 10.00 a.m. and 12.00 noon initially for a period of one year.

After end of one year, the Applicant shall attend Mohol Police Station, Solapur on every 1st Monday of every 3rd Month between 10:00 a.m. and 12:00 noon. The Applicant thus shall attend Mohol Police Station, Solapur 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 his bail.

(iv) Applicant shall inform his prospective residential address

to the trial Court. The Applicant shall keep informed the trial Court of 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.

5) Interim Application is allowed in the aforesaid terms.

(SHYAM C. CHANDAK, J.)

(A.S. GADKARI, J.)

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