

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

***INTERIM APPLICATION NO.3981 OF 2023
IN
CRIMINAL APPEAL NO.849 OF 2022***

Dattaram Shantaram Chavan Applicant/Appellant
Versus
State of Maharashtra Respondent

.....

Mr.Anush Shetty i/b. Dr.Yug Mohit Choudhari, Advocate for the
Applicant/Appellant.

Mrs.P.P. Shinde, APP for Respondent – State.

.....

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

DATE : 25th JANUARY 2024

P.C. :

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 by judgment and order dated 29th July 2022, passed by the learned Additional Sessions Judge, Kalyan, in Sessions Case No.298 of 2015, has been convicted for the offence punishable under Section 302 of Indian Penal Code (IPC) and is sentenced to suffer imprisonment for life and to pay fine of Rs.10,000/- (Rupees Ten Thousand only). In default of payment of fine, the applicant to suffer rigorous imprisonment for one year.

4 Perused the papers. The prosecution case rests on circumstantial evidence i.e. the confessional statement made by the applicant, pursuant to which the FIR was registered by the police; the knife with which the applicant assaulted the deceased was produced by the applicant, at the time when the confession was made; and the showing of the dead body of the deceased by the applicant. According to the learned counsel for the applicant, taking the prosecution case as it stands, the offence, if any, would not be one under Section 302 of IPC, but would be a lesser offence. He submits that the applicant was 21 years of the age, at the relevant time and is in custody for more than

eight years. He submits that the Appeal is of the year 2022, and is not likely to reach in the immediate near future.

5 It appears that the incident took place on 22nd March 2015 at about 7.50 a.m. when the applicant had gone to answer the nature's call in the common toilet; that while returning, the deceased passed a comment on the applicant, pursuant to which, the applicant, in a fit of rage, went to his house, brought a knife and assaulted the deceased on his neck, stomach and chest for making the said comment. According to the applicant, the deceased had made similar comments previously, however, he had ignored the said taunts and insults.

6 The applicant is in custody for more than eight years. Whether the offence would be under Section 302 of IPC or would be a lesser offence, will be examined at the time, when the Appeal is heard finally. Suffice to state that the applicant/appellant has undergone more than eight years of imprisonment and the Appeal being of the year 2023, is not likely to be heard in the near future.

7 Considering the aforesaid, the Application is allowed and

the Applicant's sentence is suspended and he is enlarged on bail pending the hearing and final disposal of his Appeal on the following terms and conditions:-

:: ORDER ::

- (i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/-, with one or two sureties in the like amount;
- (ii) The 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 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.

8 The Application is disposed of in the aforesaid terms.

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

MANJUSHA DESHPANDE, J. REVATI MOHITE DERE, J.