

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****INTERIM APPLICATION NO. 4210 OF 2023****IN****CRIMINAL APPEAL NO. 1141 OF 2023**

Kumar Babaso Kamble

... Applicant

V/s.

The State of Maharashtra

... Respondent

Ms. Misbaah Solkar a/w Faiza Gawandi for Applicant.

Ms. A.A. Takalkar, APP for Respondent-State.

**CORAM : A. S. GADKARI AND
SHYAM C. CHANDAK, JJ.****DATE : 2nd February 2024****P.C. :**

- 1) This is an application for suspension of sentence and releasing the Applicant on bail.
- 2) Heard Ms. Solkar, learned Advocate for Applicant and Ms. Takalkar, learned A.P.P. for Respondent-State. Perused record.
- 3) Applicant is convicted under Sections 302 and 307 of the Indian Penal Code and sentenced to suffer imprisonment for life by the learned Additional Sessions Judge, Jaysingpur, District Kolhapur by its impugned Judgment and Order dated 4th August 2023 in Sessions Case No.13 of 2013.
- 4) Record *prima facie* indicates that, there was a free fight ensued between the Applicant and deceased and in the said fight, the Applicant

assaulted deceased and injured witness with a dagger.

5) It is an admitted fact on record that, since the date of his arrest i.e. 3rd April, 2013, the Applicant is in incarceration and as of today, has undergone actual imprisonment of 10 years and 10 months.

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. 13/2013, arising out of CR No. 34 of 2013 registered with Police Station, Shirol, District Kolhapur, 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 Police Station, Shirol, District Kolhapur, 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 Police Station, Shirol, District Kolhapur, on every first Monday of the every 3rd Month between 10:00 am and 12:00 noon. The Applicant thus shall attend Police Station, Shirol, District Kolhapur, four times in a year during the pendency of the present Appeal.

- (iii) In case of two consecutive defaults in complying with the aforesaid 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.)