

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

**INTERIM APPLICATION NO.4488 OF 2023
IN
CRIMINAL APPEAL NO.1203 OF 2023**

Swapnil Sambhaji Khatpe .. Applicant
v/s
State Of Maharashtra .. Respondent

**WITH
INTERIM APPLICATION NO. 4471 OF 2023
IN**

CRIMINAL APPEAL NO. 556 OF 2023

Anil Chaban Khatpe .. Applicant
v/s
State Of Maharashtra .. Respondent

Mr.Shekhar Jagtap i/b Mr.Akash Pandey, for the Applicant in
IA/4488/23 and for the Appellant in Appeal / 1203/2023

Ms. A. A. Takalkar for the Respondent-State.

Mr.Ayush Pasbola a/w Mr. Sankalp Vichare, for the Applicant in IA/
4471/2023 and for the Appellant in Appeal/ 556/2023

**CORAM : A. S. GADKARI &
SHYAM C. CHANDAK, JJ.
DATED : 15th JANUARY, 2024.**

P.C. :

- 1) These are applications for suspension of sentence and releasing the Applicants on bail, during the pendency of Appeal.
- 2) The Applicants are original Accused No.1 and 2 in

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Sessions Case no.460/2015 decided by the learned Additional Sessions Judge, Pune by its impugned Judgment and Order dated 30th January 2021.

The Applicants have been convicted under Section 302 r/w. 34 and under Section 120B of the Indian Penal Code and are sentenced to suffer imprisonment for life.

3) Record indicates that the co-accused viz.Pappu Uttekar i.e. Accused No.8 has been granted bail by the Hon'ble Supreme Court in Crime Appeal (Diary) No.37680/2022 by its order dated 1st May 2023, predominantly on the ground that, he had already suffered incarceration for a period of 7 years and 11 months on the date of passing of the said order.

4) Record indicates that other co-accused viz. accused No.3 Mahesh Wagh; accused No.5 Hemant Godambe ; accused No.7 Sagar Gole and accused No.9 Vaibhav Shelar have been granted bail by this Court by its various orders.

5) The Applicants are behind the bars since the date of their arrest i.e. 5th December 2014 and have undergone approximately more than 5 years of incarceration as of today. In view of the present assignment, the possibility of hearing of substantive appeals preferred by the Applicants in near future, is

remote. The Applicants therefore are entitled to claim parity with co-accused Pappu Uttekar (Accused No.8) who has been directed to be released on bail by the Hon'ble Supreme Court on the ground of prolonged incarceration.

6) Hence, the following order:

(i) Applicants be enlarged on bail on their furnishing P.R. bond in the sum of Rs.50,000/- each with one or two solvent local sureties to make up the amount.

(ii) Applicants shall report to the trial Court, once in three months on the day/date specified by the trial Court, till their Appeal is finally disposed off.

(iii) Applicants shall keep the trial Court informed of their current address and mobile 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.

5) Both the Interim Applications are allowed in the aforesaid terms.

(SHYAM C. CHANDAK, J.)

(A. S. GADKARI, J.)