

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 3526 OF 2024

Gulab Krishna Galande

...Applicant

Versus

The State of Maharashtra

...Respondent

- Mr. Aditya Rai a/w Mr. Divakar Rai, Mr. Rajesh Tiwari, Mr. Ramchandra Rane, Mr. Saurabh Tamhankar and Mr. Vayukumar Tiwar i/b Mr. Kamlesh Yadav, for Applicant.
- Mr. Tanveer Khan, APP for Respondent.
- Mr. Prakash Sonavane, PSI, Pawai Police Station.

CORAM : MANISH PITALE, J.

DATE : 14th OCTOBER, 2024.

P. C. :

1. By this application, the applicant is not only praying for being released on bail, but he is seeking permission to surrender and it is indicated that this Court may take the applicant into the custody.
2. The learned counsel for the applicant has referred to some judgments on the true purport of the expression “Custody.”
3. The learned APP informs this Court that the contentions raised on behalf of the applicant ought not to be considered because of the facts and circumstances of the present case.
4. It is an admitted position that the applicant was arrested in connection with subject FIR on 17.03.2020, on the allegation of having

murdered his own son. His regular bail application was rejected by the Sessions Court and he continued in incarceration till he was granted interim bail on 21.05.2021 in the light of the covid-19 pandemic.

5. The learned APP correctly relied upon judgment and order dated 24.03.2023, passed by the Supreme Court in Interim Application No. 179931 of 2022 in *Suo-Moto Writ Petition (Civil) No. 1 of 2020 (In Re : Contagion of Covid 19 Virus in Prisons And Director General (Prison))*. In the said judgment and order, the Supreme Court considered the situation after the effect of the covid-19 pandemic had reduced considerably. After taking into consideration the submissions made before the Court, the following directions were issued :

“4. *In view of the above, we allow the present application with an observation and direction that all those under trials/convicts who have been released on Emergency Parole/Interim Bail pursuant to the recommendation of the High-Powered Committee, in compliance of the Orders dated 23.03.2020, 07.05.2021 and 16.07.2021 passed by this Court in Suo Moto Writ Petition No.01/2020 have to surrender before the concerned prison authorities within 15 days.*

The present order be intimated to the concerned Accused/inmates by the concerned jail authorities that they have now to surrender within the period of 15 days. However, it is observed that thereafter after the concerned

prisoners/inmates surrender before the concerned prison authorities it will be open for the concerned undertrials to pray for bail before the competent court and their applications be considered in accordance with law and on its own merits. Similarly, after the surrender by the concerned convicts who are released on Emergency Parole it will be open for them if so advised to pray for suspension of sentence before the concerned Court in their appeals which might have been pending which also may be considered in accordance with law and/or on merits.”

6. The true purport of the above quoted directions of the Supreme Court is clear and accordingly, the applicant was expected to surrender within 15 days of 24.03.2023. Admittedly he has not surrendered.

7. In the face of such facts, the applicant cannot impose himself upon this Court by stating that he is ready to surrender before this Court and his bail application be considered immediately.

8. Acceding to such a request would be placing premium on the act of the applicant in defying the specific direction issued by the Supreme Court on 24.03.2023.

9. At this stage, the learned counsel for the applicant submits that in such a situation, the applicant is ready to surrender before the Sessions Court or the concerned authority as this Court may direct and a further prayer is

made that the bail application may be taken up for consideration on merits.

10. In view of the above, as per the statement made on behalf of the applicant, he shall surrender before the police station Pawai, Mumbai by tomorrow i.e. 15.10.2024.

11. The bail application shall be listed for further consideration on **18.10.2024**, for consideration on merits.

12. The learned APP shall report to this Court as regards compliance on the part of the applicant.

(MANISH PITALE, J.)