

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

**INTERIM APPLICATION NO. 131 OF 2024
IN
CRIMINAL APPEAL NO. 30 OF 2024**

Parvej Raees Hussain Sayyed	 Applicant/Appellant
v/s.	
The State of Maharashtra	 Respondent

Ms. Jyoti Shahu for the Applicant/Appellant.

Ms. K.T. Hirwale, APP for the Respondent – State.

**CORAM : REVATI MOHITE DERE &
SHYAM C. CHANDAK, JJ.**

DATE : 14th JUNE, 2024.

P.C. :

- 1) Heard learned counsel for the respective parties.
- 2) By this Interim 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 vide judgment and order dated 06th November, 2023 passed by the learned Additional Sessions Judge,

Greater Mumbai in Sessions Case No.484/2017, has been convicted for the offence punishable under Section 302 of the Indian Penal Code and is sentenced to suffer imprisonment for life and to pay fine of Rs.10,000/- in default to suffer further simple imprisonment for six months.

4. Perused the papers.

5. Admittedly, the prosecution case rests on circumstantial evidence. The only evidence *qua* the Applicant is that of a dying declaration, allegedly made by the deceased – Khushi Fatima to PW5 – Prakash Ingle, Police Naik attached to Shivaji Nagar Police Station, Mumbai.

6. In the dying declaration made to PW5, the deceased has alleged that there was a dispute between her and her husband on account of work; that her husband was suspicious of her character; and that on 29th April, 2017 at 03:00 p.m., the Applicant poured kerosene on her person and set her ablaze.

7. The said dying declaration was recorded on 29th April, 2017 whereas the deceased succumbed to her burn injuries on 06th May, 2017. Admittedly, the police did not requisition an Executive Magistrate for recording of the statement of the deceased.

8. It appears from a perusal of the evidence of PW11 i.e. Doctor, that he was present when the dying declaration of the deceased was recorded, however; the evidence of PW5 does not reveal that the Doctor was present throughout when the dying declaration was recorded.

9. Be that as it may, the Applicant is in custody for more than 07 years and the Appeal is of the year 2024 and as such looking at the pendency of Appeals, the same is not likely to be heard in the immediate near future.

10. Considering the aforesaid facts, 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 aforesaid appeal, on the following terms and conditions :-

ORDER

- (i) The Applicant – Parvej Raees Hussain Sayyed be enlarged on bail on furnishing P.R. Bond in the sum of Rs.20,000/- 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.

11. Interim Application is allowed in the aforesaid terms and accordingly disposed of.

12. All concerned to act on an authenticated copy of this Order.

SHYAM C. CHANDAK, J.

REVATI MOHITE DERE, J.

**PREETI
HEERO
JAYANI**

Digitally signed by
PREETI HEERO
JAYANI
Date: 2024.06.19
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