

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

***INTERIM APPLICATION NO.420 OF 2024
(FOR BAIL)
IN
CRIMINAL APPEAL NO.97 OF 2024***

Abhijeet A. Bhosale	...Applicant
Versus	
The State of Maharashtra	...Respondent

***WITH
INTERIM APPLICATION NO.421 OF 2024
(FOR BAIL)
IN
CRIMINAL APPEAL NO.99 OF 2024***

Harun Ibrahim Shaikh	...Applicant
Versus	
The State of Maharashtra	...Respondent

***WITH
INTERIM APPLICATION NO.1045 OF 2024
(FOR BAIL)
IN
CRIMINAL APPEAL NO.232 OF 2024***

Sachin Rajaram Chorge	...Applicant
Versus	
The State (at the instance of Borivali Police Station)	...Respondent

WITH
INTERIM APPLICATION NO.1046 OF 2024
(FOR BAIL)
IN
CRIMINAL APPEAL NO.233 OF 2024

Brijesh Shambhunath Mishra	...Applicant
Versus	
The State (at the instance of Borivali Police Station)	...Respondent

WITH
INTERIM APPLICATION NO.1995 OF 2024
(FOR BAIL)
WITH
INTERIM APPLICATION NO.1996 OF 2024
(FOR SUSPENSION OF SENTENCE)
IN
CRIMINAL APPEAL NO.612 OF 2024

Birbal Ramvilas Singh	...Applicant
Versus	
The State of Maharashtra	...Respondent

Ms. Suvarna Avhad Vast a/w Ms. Manali Sohoni and Mr. Rahul Dingankar for the Applicants in IA/420/2024 & IA/421/2024.

Mr. Mihir Desai, Senior Advocate for the Applicants in IA/1045/2024 & IA/1046/2024.

Mr. Prashant Pandey a/w Mr. Dinesh Jadhvani and Mr. Irfan Unwala i/b W3Legal LLP, for the Applicant in IA/1995/2024 & IA/1996/2024.

Ms. P. P. Shinde, A.P.P for the Respondent – State.

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

DATE : 24th JUNE 2024

P.C. :

1. On mentioning, Interim Application Nos.1995 and 1996 of 2024 are taken up with Interim Application No.420 and 421 of 2024 and Interim Application Nos.1045 and 1046 of 2024.
2. Heard learned Counsel for the parties.
3. By the aforesaid interim applications, the applicants seek suspension of their sentence and enlargement on bail, pending the hearing and final disposal of their aforesaid appeals.
4. The applicants, vide Judgment and Order dated 17th January 2024, passed by the learned Additional Session Judge, Borivali Division, Dindoshi, Mumbai, in Sessions Case No. 161 of 2017, have been convicted and sentenced for various offences i.e. for the offences

punishable under Sections 302, 120B, 364, 365, 342, 201, 380, 392, 404, 342, 419, 420, 465, 468 and 472 r/w 34 of the Indian Penal Code. For the offence punishable under Section 302 of the Indian Penal Code, the applicants have been sentenced to suffer rigorous imprisonment for life and to pay a fine of Rs.5,000/- each, in default, to suffer rigorous imprisonment for one year. This is the maximum sentence imposed on the applicants. Different sentences have been awarded for the other offences.

All the substantive sentences were directed to run concurrently.

5. The principal ground on which suspension of sentence and enlargement on bail is sought is of long incarceration i.e. the applicants are in custody for more than 12 years i.e. since 13th June 2012. Learned counsel for the applicants relied on the judgments of the Apex Court in the case of *Saudan Singh v/s State of Uttar Pradesh*¹, and *Suleman v/s The State of Uttar Pradesh*².

1 2022 SCC OnLine SC 697

2 2022 SCC OnLine SC 714

6. Learned APP does not dispute that the applicants are in custody for more than 12 years.

7. Perused the papers. The prosecution case rests essentially on circumstantial evidence i.e. the approver's statement which came to be retracted subsequently and the approver came to be tried as an accused; recovery of various items at the behest of the applicants; last seen evidence and identification of the applicants at the time of Test Identification Parade. It appears that the incident in question had taken place on 26th April 2012 and after more than 1½ month, a partly burnt head of the deceased was recovered on 13th June 2012, at the behest of accused No.1-Gopal Pandey (now expired).

8. Without going into the merits of the case and having regard to the fact, that the applicants are in custody since 13th June 2012 i.e. for more than 12 years and keeping in mind the judgments of the Apex Court in the cases of *Saudan Singh (supra)* and *Suleman (supra)*, the applications are allowed and the applicants sentences are

suspended and they are enlarged on bail, pending the hearing and final disposal of their appeals, on the following terms and conditions :-

ORDER

- i) The applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- each with one or two sureties in the like amount;
- ii) The applicants shall report to the trial Court, once in three months on the day/date specified by the trial Court, till their Appeals are finally disposed of;
- iii) The applicants shall keep the trial Court informed of their current addresses and mobile contact numbers 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.

9. All the aforesaid Interim Applications are allowed in the aforesaid terms and are accordingly disposed of.

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

SHYAM C. CHANDAK, J.

REVATI MOHITE DERE, J.