

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

***INTERIM APPLICATION NO.490 OF 2024
IN
CRIMINAL APPEAL NO. 796 OF 2024***

Anil Bhairu Ajgekar

...Applicant
(Orig. Accused No.3)

Versus

The State of Maharashtra and Anr.

...Respondents

Mr. Shreyas Hatarote a/w Mr. Prathamesh Mandlik, for the Applicant.

Mr. Ajay S. Patil, A.P.P for the Respondent No.1-State.

***CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, JJ.***

DATE : 9th AUGUST 2024

P.C. :

1. Heard learned Counsel for the 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 alongwith other co-accused, vide Judgment and Order dated 25th August 2023, passed by learned Additional Sessions Judge, Pune, in Sessions Case No. 20 of 2012, has been convicted and sentenced as under:-

- for the offence punishable under Section 302 of the Indian Penal Code, to suffer life imprisonment and to pay a fine of Rs.10,000/-, in default, to suffer simple imprisonment for 1 year;
- for the offence punishable under Section 120B of the Indian Penal Code, to suffer life imprisonment and to pay a fine of Rs.10,000/-, in default, to suffer simple imprisonment for 1 year;
- for the offence punishable under Section 149 of the Indian Penal Code, to suffer life imprisonment and to pay a fine of Rs.10,000/-, in default, to suffer simple imprisonment for 1 year;
- for the offence punishable under Section 364 of the Indian Penal Code, to suffer life imprisonment and to pay a fine of Rs.5,000/-, in default, to suffer simple imprisonment for 6 months;
- for the offence punishable under Section 201 of the Indian Penal Code, to suffer imprisonment for 1 year and to pay a fine of

Rs.2,000/-, in default, to suffer simple imprisonment for 1 month;

- for the offence punishable under Section 143 of the Indian Penal Code, to suffer imprisonment for 6 months;
- for the offence punishable under Section 147 of the Indian Penal Code, to suffer imprisonment for one year;
- All the aforesaid sentences were directed to run concurrently.

4. Perused the application. Admittedly, the prosecution case rests on circumstantial evidence. According to the prosecution, a conspiracy was hatched by the accused to kill deceased-Pratik, as accused No.1-Pravin wanted to marry Ritika. According to the prosecution, the evidence *qua* the applicant, is that of exchange of calls between the applicant and the other co-accused i.e. evidence of CDR.

5. Learned Counsel for the applicant seeks bail on the ground of parity. He submits that the role of the applicant is similar/identical to that of the said co-accused- Yashwant Khamkar,

whose sentence has been suspended and who has been enlarged on bail by this Court vide order dated 1st August 2024. He submits that even against co-accused- Yashwant Khamkar, the evidence was only that of CDR and no other evidence. He submits that even as against the present applicant, except the evidence of CDR, there is no other evidence to connect the applicant with the alleged offence. He further submits that infact the CDR does not belong to the applicant but to one Abbas Kurane, as is evident from the evidence of PW13-Dattaram Angre.

6. Learned A.P.P. fairly states that except the CDR, there is no other material to connect the applicant with the alleged offence. Learned APP also does not dispute that the role of the applicant is similar/identical to that of the said co-accused- Yashwant Khamkar, whose sentence has been suspended and who has been enlarged on bail.

7. Considering the aforesaid, the application is allowed and the applicant's sentence is suspended and he is enlarged on bail, pending the hearing and final disposal of the aforesaid appeal, on the following terms and conditions:-

ORDER

- i) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount;
- ii) The applicant shall report to the trial Court, once in six 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.

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

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

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.