

Shailaja

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

**INTERIM APPLICATION NO.1134 OF 2024
IN
CRIMINAL APPEAL NO.305 OF 2024**

Gopal Shekhar Kumavat	]	Applicant
Vs.		
The State of Maharashtra	]	Respondent

Mr. Aniket U. Nikam i/b Mr. Amit Icham, for Applicant.

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

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

DATE : 12th 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 vide judgment and order dated 22nd February, 2024 passed by the Sessions Judge, Nashik in Sessions Case No.125 of 2021 has been convicted and sentenced as under:-

- for the offence punishable under section 302 of the Indian Penal Code, 1860 (for short “I.P.C”), to suffer life imprisonment and to pay a fine of Rs.10,000/- in default, to undergo further simple imprisonment for six months;
- for the offence punishable under section 201 of the I.P.C, to suffer rigorous imprisonment for two years and pay a fine of Rs.3,000/-, in default, to undergo further simple imprisonment for three months;
- for the offence punishable under Section 324 of the I.P.C sentenced to suffer rigorous imprisonment for two years and to pay a fine of Rs.3,000/-, in default, to suffer further simple imprisonment for three months;
- for the offence punishable under Section 506 of the I.P.C, sentenced to suffer rigorous imprisonment for two years and to pay a fine of Rs.2,000/-, in default, to undergo further simple imprisonment for two months;
- All the aforesaid sentences were directed to run concurrently.

4. Three other accused i.e accused No.2 – Shekhar Bandu Kumavat, accused No.3 – Shubham Shekhar Kumavat and accused

No.4 – Lakhan Shekhar Kumavat were acquitted of the offence with which they were charged.

5. Perused the papers. According to the prosecution, an incident took place on 28th October, 2019 late in the evening; that in the said incident, the applicant's wife questioned Ramesh Wankhede (deceased), as he made some inappropriate gestures at her; that on the next day, i.e on 29th October, 2019, at about 9.00 a.m to 9.30 a.m, again there was a fight between Ramesh Wankhede, on the one hand and the applicant and his family members, on the other. The said incident was witnessed by P.W.9 – Pravin Namdeo Gavit. According to P.W 9 – Pravin Gavit, he saw the applicant assaulting the deceased – Ramesh Wankhede with a belt and heard the applicant saying that he would kill Ramesh Wankhede. According to P.W.9 – Pravin, when his brother-in-law intervened, the applicant warned him not to intervene or he would be assaulted. According to P.W. 9 – Pravin, in the said quarrel, the deceased Ramesh's clothes were torn and he sustained injuries. He has stated that the persons present intervened in the quarrel and separated the deceased from being assaulted any further.

6. According to the prosecution, Ramesh Wankhede (deceased) thereafter came to his room and locked the door; that after about half an hour, Ramesh was found hanging in the room. It appears that the door was locked from inside and, therefore, an attempt was made to break open the same. It further appears that one Vishal entered the house from the backside of the house and opened the front door from inside, pursuant to which, the dead body was seen hanging to the ceiling fan. According to the learned Counsel for the applicant, it is a case of suicide and not a case under section 302 of the I.P.C.

7. Prima facie, there is no evidence to show that the case in hand would be one under Section 302 of the I.P.C. Even Vishal who entered the house has not been examined. Be that as it may, the applicant was on bail, pending trial. The appeal is of the year 2024 and is not likely to be heard in the near future.

8. Considering the aforesaid, the application is allowed and the applicant's sentence is suspended and he is enlarged on bail on the following conditions;

: ORDER :

(a) 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;

(b) 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;

(c) 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;

(d) 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. The application is accordingly disposed of.

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

[PRITHVIRAJ K. CHAVAN, J.]

[REVATI MOHITE DERE, J.]