

Shailaja

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

**INTERIM APPLICATION NO.1585 OF 2024
IN
CRIMINAL APPEAL NO.402 OF 2024**

Sandip Bhalchandra Wagh	]	Applicant
vs.		
State of Maharashtra	]	Respondent

.....
Mr. Chetan Deshmukh, for Applicant.

Mr. K.V. Saste, Addl. P.P, for Respondent-State.

.....

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

DATE : 22nd 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 11th January, 2019 passed by the learned Additional Sessions Judge, Nashik, in

Sessions Case No.284 of 2016 has been convicted and sentenced as under;

-for the offence punishable under section 302 r/w 34 of the Indian Penal Code, 1860 (for short “I.P.C”) to suffer life imprisonment and to pay a fine of Rs.25,000/-, in default, to suffer further rigorous imprisonment for one year;

-for the offence punishable under section 201 r/w 34 of the I.P.C to suffer rigorous imprisonment for five years and to pay fine of Rs.10,000/- , in default, to suffer further rigorous imprisonment for six months;

-for the offence punishable under section 5 read with section 27 of the Arms Act to suffer rigorous imprisonment for one year and to pay fine of Rs.5,000/- , in default, to suffer further rigorous imprisonment for three months.

All the sentences are directed to run concurrently.

4. Perused the papers. The prosecution case rests on circumstantial evidence i.e CDRs and recovery of gun at the instance of the applicant. As far as CDR is concerned, it appears from the evidence of Nodal Officer that the applicant's mobile location is shown at Pavan Nagar, Nashik at the relevant time,

whereas, the incident took place away from Pavan Nagar i.e behind M.M. Sweets at Upendra Nagar, Nashik. As far as recovery of gun is concerned, the same is found in open space. This is the only evidence *qua* the applicant. Admittedly, there is no evidence *qua* the applicant being last seen with the deceased.

5. Considering the aforesaid evidence on record and the fact that the applicant is in custody for more than eight years and that the appeal is of the year 2024 and is not likely to be heard in near future, the application is allowed and the applicant's sentence is suspended and he is enlarged on bail on the following terms and conditions:

: ORDER :

- (i) The applicant be enlarged on bail on furnishing PR 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.
6. The application is accordingly disposed of.
7. All concerned to act on the authenticated copy of this order.

[PRITHVIRAJ K. CHAVAN, J.]

[REVATI MOHITE DERE, J.]