

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

***INTERIM APPLICATION NO. 1651 OF 2024
IN
CRIMINAL APPEAL NO. 170 OF 2016***

Prakash Govindrao Patil ... Applicant

Versus

The State of Maharashtra ... Respondent

Ms. Anjali Patil a/w Mr. Tohid Shaikh for the Applicant

Mrs. P. P. Shinde, A.P.P for the Respondent-State

**CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, JJ.
WEDNESDAY, 7th AUGUST 2024**

P.C :

1 Heard learned counsel for the parties.

2 By this 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 9th February 2016 passed by the learned Additional Sessions Judge, Mumbai, in Sessions Case No.529/2014 has been convicted for the offence punishable under Sections 302 of the Indian Penal Code ('IPC') and has been sentenced to suffer imprisonment for life and to pay a fine of Rs. 1,000/-, in default, to suffer further rigorous imprisonment for one month.

4 Perused the papers. The prosecution case essentially rests on three dying declarations made to PW13-Ashwini Mane (WPSI); PW1-Shashikala Kamble (SEO); and PW16-Ananda Landge (SEO). All the three dying declarations were recorded on 20th April 2014, within a span of half an hour i.e. between 7:00 pm to 7:30 pm. From a perusal of the evidence of the said witnesses i.e. PW13-Ashwini Mane, PW1-Shashikala Kamble and PW16-Ananda Landge, it appears that all the three were present at the time when all the aforesaid three dying declarations were recorded. The incident in question had taken place on 20th April

2014. According to the deceased-Sonali, her in-laws were harassing and abusing her. It is stated that she was on the loft (पोटमाळा) when the incident took place i.e. when the applicant (deceased's father-in-law) along with the deceased's mother-in-law, poured kerosene on her person and set her ablaze. It is a matter of record that the applicant's wife was bed-ridden and was in the bed-room on the ground floor, at the relevant time and hence, the prosecution did not even file charge-sheet, much less, arraigned her as an accused, despite the said dying declarations. The allegation in the dying declarations is that the applicant and his wife poured kerosene on the deceased and set her ablaze. No specific overt act has been attributed to either of them. Even otherwise, the applicant's wife was not arraigned as an accused, despite she being named in the dying declaration, considering that she was bed-ridden and was on the ground floor.

5 In these circumstances, the dying declarations, *prima facie*, will have to be considered. The applicant is in custody for

the last 10 years 4 months. The appeal of the applicant is also not likely to be heard presently, considering that we are seized of the appeals of 2014 and confirmation cases.

6 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

- 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.

7 The application is accordingly disposed of.

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

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.