RUPALI RAJESH WAKODIKAR
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 1959 OF 2024
IN
CRIMINAL APPEAL NO. 602 OF 2024

Nisar Kadar Shaikh ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Akshay Bankapur for the Applicant in IA/1959/2024.

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

CORAM : REVATI MOHITE DERE &
SHYAM C. CHANDAK, JJ.
DATE : 3rd JULY, 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 3rd May, 2018, passed by the learned Special Judge (MCOCA) and Additional Sessions Judge, Nashik, in Special (MCOCA) Case No. 1 of 2011, has been convicted alongwith others, for several offences i.e. offence punishable under Section 364 r/w 120B of the Indian Penal Code('IPC' for short); Section 384 r/w 120B of the IPC; Section 302 r/w 120B of the IPC; Section 201 r/w Section 120B of the IPC; Section 3(1)(i) of the MCOC Act; Section 3(2) of the MCOC Act and Section 3(4) of the MCOC Act. The maximum sentence imposed is for the offence punishable under Section 302 r/w 120B of the IPC to suffer imprisonment for life and to pay fine of Rs.10,000/-, in default, to suffer rigorous imprisonment for six months. Separate substantive sentences have been awarded for each of the offences. All the sentences were directed to run concurrently.

4. Perused the application. Learned Counsel for the applicant seeks bail on the ground of parity. He submits that the applicant is in custody since 17th October, 2011 i.e. for about 12 years and 4 months. He states that similarly placed co-accused have been enlarged on bail.

5. Learned APP does not dispute the same.

6. It is a matter of record that the applicant is in custody since 17th October, 2011 and as such, till date, has undergone more than 12 years of incarceration. Keeping in mind the Judgment of the Apex Court in ***Saudan Singh V/s The State of Uttar Pradesh***[1] and ***Suleman V/s The State of Uttar Pradesh***[2] and also having perused the orders passed by the co-ordinate bench, enlarging co-accused on bail on the ground of long incarceration, the application deserves to be allowed.

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 his appeal, on the following terms and conditions;

ORDER

i) The applicant be enlarged on bail on furnishing

1 Cri.Appeal No. 308-2022 (@ SLP (Cri) No. 4633 of 2021)
2 Cri.Appeal No. 491 of 2022 (arising out of SLP Cri.NO. 1451/2022)

P.R. Bond in the sum of Rs. 50,000/- with one or two local sureties in the like amount;

ii) The applicant shall report to the trial Court, once in three 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. The Application is allowed in the aforesaid terms and is accordingly disposed of.

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

SHYAM C. CHANDAK, J. REVATI MOHITE DERE, J.