

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

***INTERIM APPLICATION NO. 2030 OF 2024
(For Suspension of Sentence and Bail)
IN
CRIMINAL APPEAL NO. 516 OF 2024***

Surendra Haribhau Patil ... Applicant

Versus

The State of Maharashtra ... Respondent

Mr. S. C. Mangle a/w Mr. Balwant Salunkhe for the Applicant

Mr. Ajay S. Patil, 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 22nd April 2024 passed by the learned Sessions Judge, Raigad, Alibag, in Sessions Case No. 146/2012 has been convicted for the offence punishable under Sections 302 and 201 of the Indian Penal Code (`IPC'). Separate substantive sentences have been awarded for each of the said offences. As far as the offence under Section 302 of the IPC is concerned, the applicant has been sentenced to suffer imprisonment for life and to pay a fine of Rs. 10,000/-, in default, to suffer further rigorous imprisonment for one year. As far as offence punishable under Section 201 of the IPC is concerned, the applicant has been sentenced to suffer rigorous imprisonment for 2 years and to pay a fine of Rs. 5,000/-, in default, to suffer further rigorous imprisonment for six months.

 The other co-accused in the same case have been acquitted. The applicant has also been acquitted for the offence punishable under Section 120B of the IPC.

4 Perused the papers. Admittedly, the prosecution case rests on the circumstantial evidence i.e. the evidence of last seen. In order to prove the said circumstance, the prosecution has examined two witnesses i.e. PW10-Vikas Randive and PW11-Suresh Patil.

5 Having perused the evidence of both the witnesses, *prima facie*, we are of the opinion that the evidence that has come on record, cannot be termed as last seen. It is not in dispute that the applicant was on bail pending trial and has not misused the conditions of bail.

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.