

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

**INTERIM APPLICATION NO. 2031 OF 2024  
WITH  
CRIMINAL APPEAL NO. 517 OF 2024**

Babita Jaggusingh Labhana .. Applicant  
Vs.  
The State of Maharashtra .. Respondent

**WITH  
INTERIM APPLICATION NO. 2032 OF 2024  
WITH  
CRIMINAL APPEAL NO. 518 OF 2024**

Priya Vijaykumar Ailani .. Applicant  
Vs.  
The State of Maharashtra .. Respondent

**WITH  
INTERIM APPLICATION NO. 2033 OF 2024  
WITH  
CRIMINAL APPEAL NO. 519 OF 2024**

Rajesh Rajendra Tharur .. Applicant  
Vs.  
The State of Maharashtra .. Respondent

**INTERIM APPLICATION NO. 2294 OF 2024  
IN  
CRIMINAL APPEAL NO. 607 of 2024**

Akash Harish Mendan .. Applicant  
Vs.  
The State of Maharashtra .. Respondent

....  
Mr. Veerdhawal Deshmukh for the applicants  
Mr. V.B. Konde Deshmukh, Addl. PP for the respondent – State  
....

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

**DATE : 7<sup>th</sup> OCTOBER, 2024.**

**P.C.**

1. Heard learned Counsel for the respective parties.
2. By these aforesaid applications, the applicants seek suspension of their sentences and enlargement on bail, pending the hearing and final disposal of the aforesaid appeals.
3. The applicants vide judgment and order dated 23.04.2024 passed by the learned Additional Sessions Judge, Kalyan in Sessions Case No. 121 of 2014 have been convicted for the offences punishable under Sections 120B, 302 and 201 r/w 34 of the Indian Penal Code and are sentenced to suffer different sentences for the said offences. In addition to the aforesaid, the applicant – Rajesh Tharur has also been convicted for the offence punishable under Section 404 of the IPC. The maximum

punishment awarded to the applicants is imprisonment for life for the offence punishable under Section 302 of the IPC.

4. Perused the papers. The prosecution case rests on circumstantial evidence. According to the learned Counsel for the applicants, the applicants have been essentially convicted on the basis of the disclosure statements made by the applicants under section 27 of the Evidence Act. He submitted that the learned Judge has relied on motive as a circumstance, based on the contents of the disclosure statements made under Section 27 of the Evidence Act, which are clearly inadmissible.

5. We have perused the evidence and the impugned judgment. The learned Judge has essentially relied on the disclosure statements made under Section 27 of the Evidence Act for convicting the applicants. Apart from the aforesaid, no CA / DNA reports have been placed on record by the prosecution with respect to weapons recovered i.e. iron rod and a chisel. So far as recovery of gold bracelet and mobile of the deceased are concerned at the behest of one of the applicant – accused, the

same have not been identified by any witnesses to show that the said articles belonged to the deceased. It is the prosecution case that accused nos. 2 and 3 i.e. Babita and Priya owed the deceased an amount of Rs.1,20,000/- and Rs.11,00,000/- respectively, and as the said amount was being demanded by the deceased, the accused nos. 2 and 3 hired accused no.1 Aakash and A-4 Rajesh and paid Rs.4,00,000/- to eliminate the deceased. The accused no.1 - Aakash is in custody for 10 years and 10 months. The accused nos. 2 and 3 – Babita and Priya are in custody for about 7 years and 10 months and 8 years and 5 months respectively. The accused no.4 – Rajesh is in custody for 10 years and 10 months. The appeals are of the year 2024 and are not likely to be heard in the near future.

6. Considering the evidence as stated aforesaid, which is essentially based on the disclosure statements made under Section 27 of the Evidence Act and the fact that the applicants are in custody as stated aforesaid, the applications are allowed and the applicants' sentences are suspended and they are enlarged on bail, pending the hearing and final disposal of the

appeals on the following terms and conditions:-

### **ORDER**

- i) The applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 50,000/- each, with one or two sureties in the like amount;
- ii) The applicants shall report to the trial Court, once in four months on the day/date specified by the trial Court, till their Appeals are finally disposed of;
- iii) The applicants shall keep the trial Court informed of their 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.

10. The Applications are allowed in the aforesaid terms and are accordingly disposed of.

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

**(PRITHVIRAJ K. CHAVAN, J.)      (REVATI MOHITE DERE, J.)**