

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 2132 OF 2024
IN
CRIMINAL APPEAL NO. 1746 OF 2019

Hanshraj @ Haresh Babulal Gajara .. Applicant
Versus
The State of Maharashtra .. Respondent

Mr.Kishore D Walanju for the Applicant.
Ms.S.S. Kaushik, APP for the State.

CORAM: BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ.
DATED : 24th JULY, 2024

P.C:-

1 An application is preferred by the Appellant Hanshraj @ Haresh Babulal Gajara, who is convicted for committing an offence under Section 302, 307, 201 of IPC and sentenced to suffer Rigorous Imprisonment for life by the Additional Sessions Judge, Raigad, in Sessions Case No. 9 of 2014.

The learned counsel appointed through legal aid to represent the applicant would submit that, the ground for preferring the application is completion of almost 10 years of incarceration of the applicant and by relying upon the decision in case of *Suleman vs State of Uttar Pradesh 2022 SCC online SC 714*, he prays for his release on having undergone almost 10 years of imprisonment.

2 We have noted the order dated 4/08/2022, on an Interim Application 850 of 2019, filed by the very said applicant and it came

to be rejected, on perusal of the evidence that was placed before the trial Judge, indicating that the applicant in a pre meditated manner committed murder of his wife and when his son (PW-6) attempted to rescue her, he also inflicted blows of knife on his neck. Recording that the evidence of the witnesses *prima facie* appears to be reliable and trustworthy, the application was rejected.

3 Since, in the wake of the decision of the Apex Court, in case of *Omprakash Sahni vs. Jai Shankar Chaudhary and anr* (2023) 6 SCC 123, since it is not only the period of incarceration, which deserve consideration, while considering an application under Section 389 of the Code of Criminal Procedure, but also the evidence, which is brought on record, as well as the gravity of the accusations faced by him, we are not inclined to consider this application on the same ground.

However, considering that the appeal is filed in the year 2019, and the appellant has already undergone 9 years 11 months and 4 days of imprisonment as on 1/05/2024, and since the Record and Proceedings along with the paper book is received, we deem it appropriate, to direct the appeal to be added to the final hearing board, from the week commencing from 8/09/2024.

(MANJUSHA DESHPANDE,J)

(BHARATI DANGRE, J.)