

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

***INTERIM APPLICATION NO. 2267 OF 2024
IN
CRIMINAL APPEAL NO. 590 OF 2024***

Ganesh Rajendra Kheratkar ... Applicant

Versus

The State Of Maharashtra ...Respondent

Mr. Ganesh Gole a/w Mr. Ateet Shirodkar and Mr. Kunjan
Makwana for the Applicant

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

**CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, JJ.
TUESDAY, 27th 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 26th April 2024, passed by learned Additional Sessions Judge, Raigad, in Sessions Case No. 28/2014, has been convicted for the offence punishable under Section 302 of the Indian Penal Code and is sentenced to suffer rigorous imprisonment for life and to pay a fine of Rs.2,00,000/-, in default, to suffer simple imprisonment for three months.

4 Perused the papers, in particular, the evidence of eye-witnesses PW1-Vishal Bamane and PW2-Ganesh Bavkar. PW1-Vishal is the brother of the deceased-Vinod. From his evidence, it appears that the incident took place at the spur of the moment, when the teams were playing cricket. It appears that the deceased assaulted the applicant with fist blows and thereafter with a bat. It appears that thereafter, an effort was made to pacify the quarrel and thereafter, the applicant picked-up the bat and assaulted Vinod three-four times, from behind, on the head.

5 It is not in dispute that the applicant was on bail pending trial. The appeal is of the year 2024 and is not likely to be heard in the immediate near future. It *prima facie* appears that the incident has taken place at the spur of the moment and the offence, if any, would not be under Section 302 but a lesser offence.

6 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 the aforesaid appeal, on the following terms and 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 Interim Application is accordingly disposed of in the above terms.

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

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.