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Uday S. Jagtap

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

**INTERIM APPLICATION NO. 2490 OF 2024
IN
CRIMINAL APPEAL NO. 710 OF 2024**

Santosh Anant Surve

.. Applicant

Vs.

The State of Maharashtra

.. Respondent

....
Mr Ashish B. Jagtap a/w Mr. Bhanudas L. Jagtap for the
applicant

Mrs. Kranti T. Hiwrale, APP for the respondent – State

....

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

DATE : 6th SEPTEMBER, 2024.

P.C.

1. Heard learned Counsel for the parties.
2. By this Interim Application, the applicant seeks suspension of his sentence and enlargement on bail, pending the hearing and final disposal of the aforesaid appeal.
3. The applicant, vide judgment and order dated 15.04.2023

passed by the learned Addl. Sessions Judge, Borivali Division, Dindoshi, Mumbai in Sessions Case No. 377 of 2016, has been convicted for the offences punishable under Sections 302 and 323 of the Indian Penal Code. For the offence punishable under Section 302 of the IPC, the applicant has been sentenced to suffer imprisonment for life. Separate sentences have been awarded for the other offence. All sentences are directed to run concurrently.

4. Perused the papers. According to the prosecution, the case rests on direct evidence i.e. evidence of PW-3 Snehlata Surve. It is the prosecution case that the applicant assaulted his mother, aged 80 years, as a result of which, she succumbed to the same. It is further the prosecution case, that the applicant assaulted his mother (deceased) on account of a property dispute. Perused the evidence of PW-3 Snehlata Surve. From the said evidence, it appears that on 16.06.2016, there was a quarrel between the applicant and his sister Anjali, who is also the sister of PW-3 Snehalata Surve. It appears that the applicant in the said quarrel manhandled his mother (deceased), pursuant to which, the

applicant's sister Anjali lodged a complaint with the Police Station. It further appears that the applicant was taken by the Police pursuant to the said incident in the Police Station after which, he returned home. According to the PW-3 Snehlata Surve, in the morning i.e. on 17.06.2016 when she went to give tea to her mother, she found her mother motionless. Pursuant thereto, PW-3 Snehlata informed her brother Prakash Survey (applicant's brother), who lodged an FIR against the applicant.

5. Learned Counsel for the applicant submits that taking the prosecution case as it is, no offence under section 302 of the IPC is disclosed. He submits that even PW-3 Snehlata Surve speaks about an incident of 16.06.2016 i.e. the verbal quarrel that took place between the applicant and Anjali and the manhandling by the applicant of his mother, but does not speak about any incident that took place post the applicant's return from the Police Station. It appears that the applicant is in custody for about more than 8 years. The appeal is of the year 2024 and is not likely to be heard in the immediate future.

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 his 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. The Application is allowed in the aforesaid terms and is accordingly disposed of.

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

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