

3. The applicant, vide Judgment and Order dated 8th May, 2019, passed by the learned Additional Sessions Judge, Pune, in Sessions Case No. 690 of 2014, has been convicted alongwith another co-accused as under:-

- for the offence punishable under Section 302 r/w 34 of the Indian Penal Code, to suffer imprisonment for life and to pay a fine of Rs.2,000/-, in default, to suffer further rigorous imprisonment for one month;
- for the offence punishable under Section 201 r/w 34 of the Indian Penal Code, to suffer rigorous imprisonment for five years and to pay a fine of Rs. 1,000/-, in default, to suffer further rigorous imprisonment for 15 days;
- for the offence punishable under Section 404 r/w 34 of the Indian Penal Code, to suffer rigorous imprisonment for one year and to pay a fine of Rs. 500/-, in default, to suffer further rigorous imprisonment for 8 days.

All the aforesaid sentences were directed to run concurrently.

4. Perused the papers. Admittedly, the prosecution case rests on circumstantial evidence. As far as the applicant is concerned, the circumstances relied upon by the prosecution are last seen evidence and recovery of blood stained clothes at the instance of the applicant. As far as the last seen evidence is concerned, PW4- Firoz Ibrahim Pathan has turned hostile and as such, has not supported the prosecution case. Thus, the only evidence *qua* the applicant is that of recovery of blood stained clothes.

5. It is not in dispute that the applicant is in custody since 26th July, 2014, for more than 10 years. The appeal is of the year 2002 and is not likely to be heard in the immediate near 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.