

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

**INTERIM APPLICATION NO.3087 OF 2024
IN
CRIMINAL APPEAL NO. 930 OF 2024**

Bharat Mahesh Vegada

.... Applicant

versus

State of Maharashtra

.... Respondent

Mr. Naveen Chomal for Applicant.

Mr. V. A. Kulkarni, APP for the State-Respondent

CORAM : M. M. SATHAYE, J.

DATED : 13th NOVEMBER 2024

PC.:

1. Heard learned Counsel for the Applicant and learned APP for the Respondent-State.

2. This is an Application by the Accused No. 4 for suspension of sentence and interim bail in respect of the judgment and order of conviction dated 01/02/2023 passed by the Additional Sessions Judge, Borivali Division at Dindoshi, Mumbai in Sessions Case No. 200/2015. By the impugned order, the Applicant is convicted for the offence punishable u/s. 395 r/w 120(B), 365, 451, 170, 342 of the Indian Penal Code, 1860 (for short "the IPC") and sentenced to undergo rigorous imprisonment for 10 years. The appeal is admitted and pending for final hearing.

3. Learned Counsel for the Applicant submitted that the Applicant was on bail during the Trial and was taken in the custody after the impugned conviction and he has, so far already suffered detention of about 4 & ½ years, excluding remission etc. He submits that if case of the prosecution is

considered, even *prima facie* the offence of dacoity is not borne out and there are no allegations of causing death or hurt. He submits without admitting, that at the most this is a case of impersonation but still, the Applicant is sentenced to suffer 10 years of rigorous imprisonment. He relied on the order of this Court passed in IA/1535/2023 by which the Accused Nos. 1 to 2 have been granted interim bail and the order of this Court passed in IA/3284/2023 by which this Court has granted interim bail to the Accused No. 10. He claims parity.

4. I have perused the impugned judgment and order. According to prosecution, 4 persons had entered the house of the complainant pretending to be income tax officers and had committed the alleged offense by taking away 2 bags of cash and jewelry and 2 persons were standing outside. It appears that the Complainant P.W. No. 1 – Jayantibhai, P.W. No. 5 - Inna, wife of Jayantibhai and P.W. No. 18 – Nikhil Son of Jayantibhai have identified 4 persons viz. only Accused Nos. 5, 6, 7 & 9, who had purportedly entered the house of the complainant. It also appears that Applicant / Accused no. 4 has been identified in Court by PW-21 Investigating Officer and not by complainant or his wife or son. Apparently the present Applicant/Accused No. 4 has also been considered in the same manner in which the Accused Nos. 5, 6, 7 & 9 are considered and punishment of 10 years is awarded to him for conviction u/s. 395 of the IPC. Similar recoveries of shares of the loot, as that of Applicant, have taken place for Accused Nos. 1 and 2, who are sentenced for imprisonment of 5 years i.e short term sentence and who have been granted interim bail by this Court.

5. The Applicant has already suffered detention of 4 & ½ years. It is not brought to the notice of the Court that the Applicant had misused his liberty when he was on bail during trial. There are no antecedents. Also, no

exceptional circumstances or grounds are made out for not granting bail to the present Applicant. The Appeal is of the year 2024 and is recently admitted and pending for final hearing and it is not likely to be taken up for final disposal in near future.

6. In the aforesaid facts and circumstances, I am inclined to grant interim bail and following order is passed:

(a) The Application is allowed. Remaining sentence of imprisonment imposed on the Applicant / Accused No. 4 – Bharat Mahesh Vegada is suspended during the pendency of this Appeal.

(b) Applicant / Accused No. 4 – Bharat Mahesh Vegada be released on bail on execution of P.R. Bond in the sum of Rs. 25,000/- with one or two surety in the like amount.

(c) The Applicant shall furnish his permanent address as well as present address, copy of his Aadhar Card and mobile/contact numbers to the local police station.

(d) The Applicant is directed to attend the local police station on first Monday of each month, until further orders.

(e) The Applicant is further directed not to enter the area where the complainant or his family members reside, except for attending police station as directed.

(M. M. SATHAYE, J.)