

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

**INTERIM APPLICATION NO.3197 OF 2024
IN
CRIMINAL APPEAL NO. 937 OF 202024**

Santosh Bandu Raut] Applicant
Vs.]
State of Maharashtra] Respondent

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Mr. Vinay J. Bhanushali a/w Mr. Sanmit Vaze, for the Applicant.

Mrs. P. P. Shinde, A.P.P, for Respondent-State.

.....

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

DATE : 2nd September, 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 6th February 2018 passed by the learned Additional Sessions Judge, Thane in Sessions Case No. 206/2011 has been convicted along with two other accused for the offences punishable under Sections 302, 394,

201 and 34 of the Indian Penal Code ('IPC'). Separate substantive sentences have been awarded for each of the said offences. As far as the offence under Section 302 of the IPC is concerned, the applicant has been sentenced to suffer imprisonment for life and to pay a fine of Rs. 10,000/-, in default, to suffer further rigorous imprisonment for six months. All the said sentences are directed to run concurrently.

4 Learned counsel for the applicant seeks bail on the ground of parity. He submits that similarly placed co-accused i.e. Vinod Vishnu Bandal's and Suraj Gurav's sentences have been suspended and they have been enlarged on bail by this Court vide orders dated 31st July, 2018 and 10th June, 2014. He submits that even otherwise, the applicant is incarcerated for more than 14 years and as per the judgment of the Apex Court in **Saudan Singh Vs. State of Uttar Pradesh**¹, the applicant is entitled to be enlarged on bail.

5 Learned A. P. P. opposes the application.

7 Perused the papers. The prosecution case entirely rests on

1 2022 SCC On Line SC 697

circumstantial evidence. As far as the applicant is concerned, the evidence against the applicant is of the opinion of the finger print expert and recovery of stolen articles i.e. mobile phone and laptop of the deceased as well as clothes of the deceased. As far as fingerprint expert's report is concerned, it appears that the applicant's fingerprints were found on the cupboard found in the room of the deceased. As far as fingerprint expert's report is concerned, it is a weak type of evidence. Thus, the only evidence is that of recovery of mobile phone, laptop and clothes of the deceased.

8 This Court vide orders dated 31st July, 2018 and 10th June, 2014 have enlarged two co-accused on bail i.e. Vinod Vishnu Bandal and Suraj Popatrao Gurav.

9 The aforesaid appeal has been filed by the applicant after almost six years from the date of his conviction and sentence.

10 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 four 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.

11 The application is accordingly disposed of.

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

[PRITHVIRAJ K. CHAVAN, J.]

[REVATI MOHITE DERE, J.]