

Uday S. Jagtap

(Corrected as per Speaking to Minutes Order dated 16.10.2024 in Bold)

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

**INTERIM APPLICATION NO. 3243 OF 2024
IN
CRIMINAL APPEAL NO. 163 OF 2020**

Firoz Abdul Sakur Khan .. Applicant
Vs.
The State of Maharashtra .. Respondent

....
Mr. Mohammed Ahmed Shaikh for the applicant
Mr. V.B. Konde Deshmukh, Addl. PP for the respondent – State
Mr. Vinit Jain a/w Mr. Ashok Verma for the respondent no.2
....

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

DATE : 7th OCTOBER, 2024.

P.C.

1. Heard learned Counsel for the parties.
2. This is the second Interim Application preferred by the applicant seeking suspension of his sentence and enlargement on bail, pending the hearing and final disposal of his aforesaid appeal.

3. The applicant's first IA i.e. Interim Application No. 2 of 2020 filed in the aforesaid appeal was dismissed on merits by this Court (Coram :- P. B. Varale (as he was then) & V.G. Bisht, JJ) vide order dated 15th October 2020. Since the Judges are not available, we have taken the aforesaid Interim Application for hearing.

4. The applicant alongwith another co-accused has been convicted for the offence punishable under Sections 302 r/w 34 of the IPC and is sentenced to suffer imprisonment for life and to pay fine of Rs.5,000/-, in default to suffer RI for six months **vide Judgment and Order dated 29th March 2019, passed by learned Additional Sessions Judge, Palghar, in Sessions Case No. 39 of 2015.** The applicant, in addition to the aforesaid offence, has also been convicted for the offence punishable under Section 394 r/w 34 of the IPC and is sentenced to suffer rigorous imprisonment for 10 years and to pay a fine of Rs.5,000/-, in default to suffer RI for six months.

5. Perused the papers. The prosecution case essentially rests on circumstantial evidence. The main evidence against the

applicant is that of last seen with the deceased alongwith the accused no.2, who has been enlarged on bail and on the basis of the last call made by the applicant to the deceased asking him to come to the spot. It is not in dispute that sentence of the co-accused no.2 has been suspended and he is released on bail. It is also not in dispute that the applicant is in custody for more than 9 years. The appeal is of the year 2020 and is not likely to be heard in the near future.

6. Considering the evidence as stated above and the long incarceration of the applicant, 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.

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

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

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