

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

***INTERIM APPLICATION NO.3730 OF 2024
IN
CRIMINAL APPEAL NO.1007 OF 2024***

Mehul Rajnet Thakur

...Applicant

Versus

Union Territory of Dadra Nagar

Haveli, Daman & Diu

Through Union of India and Anr.

...Respondents

Mr. Girish Kulkarni, Senior Advocate a/w Mr. Kripashankar Pandey,
Mr. Vivek Pandey i/b Ms. Ridhima Mangaonkar and Mr. Shyam
Krishna Tripathi, for the Applicant.

Mr. H. S. Venegavkar, Special P.P. a/w Ms. Amisha Salvi, for the
Respondent No.1-UT.

Mr. K. V. Saste, Addl.PP for the Respondent No.2-State.

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

DATE : 13th NOVEMBER 2024

P.C. :

1. Heard learned counsel for the parties.
2. By this Interim Application, the applicant (original accused
No.4) seeks suspension of his sentence and enlargement on bail,

pending the hearing and final disposal of the aforesaid appeal.

3. The applicant alongwith other co-accused vide judgment and order dated 22nd August 2024 passed by the learned Sessions Judge, Daman in Session Case No.09 of 2020 has been convicted as under:

— for the offence punishable u/s. 120B r/w Section 302 of the Indian Penal Code, to suffer life imprisonment and to pay fine of Rs.15,000/-, in default, to suffer further simple imprisonment for six months.

4. Perused the papers. It is not in dispute that although three eye-witnesses were examined by the prosecution in the said case, all the said witnesses turned hostile and as such did not support the prosecution case. The only evidence *qua* the applicant is recovery of the applicant's vehicle at the behest of another co-accused under Section 27 of the Evidence Act; and, that the applicant stayed in a hotel alongwith the other co-accused, two days post the incident. Mr.

Venegavkar, learned Special Public Prosecutor, appearing on behalf of the respondent No.1 is unable to point out any other evidence, apart from what was disclosed to us by the learned senior counsel appearing on behalf of the applicant. It appears that the prosecution has not adduced any evidence to show hatching of conspiracy between the accused prior to the incident nor are the CDRs of the accused collected in the said case. The applicant was on bail pending trial.

5. Considering the evidence as stated aforesaid and the fact that the appeal is of the year 2024 and the same is not likely to come up for hearing in the immediate near future, the application is allowed and the applicant's sentence is suspended and he is enlarged on bail, pending the hearing and final disposal of the aforesaid 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.50,000/- with one or two local solvent 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 the appeal is finally disposed of;
- iii) The applicant shall not contact the complainant, witnesses or any person concerned with the case;
- iv) 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;
- v) 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.

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

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

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.