

Shailaja

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

**INTERIM APPLICATION NO.4006 OF 2024
IN
CRIMINAL APPEAL NO.1087 OF 2024**

Bhavesb Bhaguram Kap	]	Applicant
Vs.		
The State of Maharashtra	]	Respondent

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Mr. R.V. Gupta i/b Mr. Rohit Vaishya, for Applicant.

Mr. K.V. Saste, Addl. P.P, for Respondent – State.

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

DATE : 22nd October, 2024.

P.C:

1. Heard learned Counsel for the parties.
2. By this Interim 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 13th August, 2024 passed by the learned Additional Sessions Judge at Mangaon, District Raigad in Sessions Case No.35 of 2021, has been convicted for the offence punishable under Section 302 of the Indian Penal Code and is sentenced to suffer rigorous imprisonment for life and to pay a fine of Rs.15,000/-, in default, to undergo simple imprisonment of three months.

4. Perused the papers. The prosecution case essentially rests on circumstantial evidence. As far as P.W.1 – Dnyaneshwar Hari Shedge and P.W.2 – Divya Dinesh Shedge are concerned, to whom, an extra judicial confessional statement was made by the applicant, both the said witnesses have turned hostile and as such, their evidence is not of any assistance. It appears that the applicant has been convicted on the basis of the applicant being in the company of the deceased. Motive, according to the prosecution, is that the deceased (father) refused to handover the applicant's (deceased's son) mobile phone, pursuant to which, the applicant took a wooden *chopana* and assaulted the deceased on his head. It is a case of single injury. The said motive has not come on record through any witness.

5. The applicant has been incarcerated for last four years. The appeal is of the year 2024 and the same is not likely to come up for the hearing in the immediate future.

6. Considering what is stated 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 :

(a) 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;

(b) The applicant shall report to the Trial Court once in six months on the day/date specified by the Trial Court, till the appeal is finally disposed of;

(c) 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;

(d) 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.]