

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

***INTERIM APPLICATION NO.4150 OF 2024
(FOR BAIL)***

***IN
CRIMINAL APPEAL NO.1116 OF 2024***

1. Raju Jaising Thakar
2. Santosh Jaising Thakar
3. Preetam @ Rodya Pandit Thakar
4. Jagdish @ Gotya Shivaji Thakar
5. Chandrashekhar Shivaji Thakar
6. Tushar Pralhad Thakar
7. Raghunath Damu Parkhi ...Applicants
Versus
The State of Maharashtra and Anr ...Respondents

Mr. Niranjan S. Mundargi a/w Ms. Keral Mehta Mr. Sainath Garade
and Mr. Yogesh, i/b Mr. Aadesh Konde-Deshmukh, for the Applicants.

Mr. K. V. Saste, Addl.P.P. for the Respondent No.1-State.

Mr. Rajiv Patil, Senior Advocate a/w Mr. Prabhakar Jadhav, for the
Respondent No.2.

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

DATE : 13th NOVEMBER 2024

P.C. :

1. Heard learned counsel for the parties.

2. By this application, the applicants seek suspension of their sentence and enlargement on bail, pending the hearing and final disposal of their aforesaid appeal.

3. The applicants (original accused Nos.2 to 8), vide Judgment and Order dated 27th September 2024, passed by the learned Additional Sessions Judge, Khed-Rajgurunagar, Pune, in Sessions Case No.51 of 2014 (Old Sessions Case No.1105 of 2009), have been convicted for the offences punishable under Sections 302, 364, 120B, 341, 143, 146, 147, 148 and 149 of the Indian Penal Code. For the offence punishable under Sections 302 r/w 149 r/w 120B of the Indian Penal Code, the applicants have been sentenced to suffer rigorous imprisonment for life and to pay a fine of Rs.2,000/- each, in default, to undergo simple imprisonment for one month. Separate sentences have been awarded for the other offences and all the sentences are directed to run concurrently.

4. Perused the papers as well as the evidence. In the present case, the prosecution examined two eye-witnesses i.e. PW7 and PW11. Admittedly, both the said witnesses turned hostile and none of the eye-witnesses, have identified any of the applicants. It is not in dispute that in the present case i.e. in the double murder case, two investigations were carried out, one by the local police station i.e. Chakan Police Station, Pune and the other, by the LCB, Pune. In the investigation carried out by the Chakan Police Station, Pune, another set of accused were arrested (not the applicants) whereas in the parallel investigation carried out by the LCB, Pune, the present applicants were apprehended. It is not in dispute that pursuant to the arrest of the applicants, the accused arrested by the Chakan Police Station, Pune, were discharged from the said case.

5. We have perused the evidence as well as the impugned Judgment. *Prima facie*, we do not find any substantive evidence sufficient to convict the applicants. Infact, even the appreciation of evidence by the learned Additional Sessions Judge appears to be faulty

and not in accordance with the settled principles of law. It is not in dispute that the applicants were on bail pending trial.

6. Learned counsel for the respondent No.2/original complainant opposed the application. He submits that the complainant was constrained to lodge an NC, pursuant to the threats extended by the applicants, when the trial was in progress. It appears, that one NC was registered against the applicants on 11th December 2018. Post the said NC nothing has been brought on record to show that threats were extended. Be that as it may, appropriate conditions can be imposed since the complainant apprehends threats to his life.

7. Considering what is stated aforesaid, the application is allowed and the applicants sentences are suspended and they are enlarged on bail, pending the hearing and final disposal of the aforesaid appeal, on the following terms and conditions:-

ORDER

- i) The applicants be enlarged on bail on furnishing P.R.Bond in the sum of Rs.50,000/- each, with one or two solvent sureties in the like amount;
- ii) The applicants shall attend the Chakan Police Station, Pune, on the first Saturday of every month between 10:00 a.m. to 1:00 p.m., initially for a period of 12 months and thereafter, once in two months between 10:00 a.m. to 1:00 p.m., till the disposal of their appeal;
- iii) The applicants shall not contact the complainant, witnesses or any person concerned with the case;
- iv) The applicants shall keep the Chakan Police Station, Pune, informed of their 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 attending the Police Station, the prosecution will be at liberty to apply for cancellation of Applicants' bail.

8. 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.