

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO.4923 OF 2024
IN
CRIMINAL APPEAL NO.294 OF 2017

Dada alias Pravin Satish Pawar .. Applicant

Versus

The State of Maharashtra .. Respondent

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Mr.D.G.Khamkar for the Applicant.

Mr.S.V.Gavand, A.P.P. for the State/Respondent.

...

CORAM: BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ.

DATED : 10th DECEMBER, 2024

P.C:-

1. Heard learned counsel for the Applicant and learned A.P.P. Mr.Gavand for the State.

The Applicant, who faced the charge under Sections 364, 365, 342, 302, 384 read with Section 34 of IPC and Section 201 read with Section 34 of IPC, was tried by the learned Additional Sessions Judge, Solapur and he stood convicted and distinct sentences have been imposed on him. On being convicted under Section 302, he has been sentenced to suffer rigorous imprisonment for life.

He came to be arrested on 10/07/2008 and upon the judgment being pronounced by the trial Court, he remained incarcerated.

2. While praying for his release on bail and suspending the sentence by invoking the power under Section 389 of Cr.P.C., the learned counsel has placed reliance upon the orders passed by this Court in the cases of co-accused, who have been released on bail.

On 06/10/2023, co-accused Lally @ Raviraj Suresh Lengare (Interim Application No.3671 of 2022) was held to be entitled to be enlarged on bail, by recording that the case of the prosecution entirely rests on circumstantial evidence and the incriminating circumstance against him is, he made number of calls to accused No.1, one day prior to the incident and also on the day of the incident.

Accepting this position, the Court considered his case to be fit for being enlarged on bail.

3. Co-accused, Ganesh Hanumant Ghuge also approached this Court by preferring Interim Application No.4038 of 2023 and on 10/11/2023, this Court by taking into consideration the submission of the learned A.P.P. that apart from the CDR record, there was also recovery of an adhesive tape and rope, which were allegedly used to gag the deceased. In addition, there was also recovery of money at the instance of the said applicant.

Recording that the said recovery is not sufficient to incriminate him and as far as recovery of money is concerned, the same was not identifiable, so as to infer that the same was belonging to the deceased and considering that he is in custody for last 15 years, he was enlarged on bail.

4. Mr.Gavand, learned A.P.P., would submit that as far as the present Applicant is concerned, his role is surfaced during the trial and the evidence would reflect that pursuant to the demand raised with the relatives of the deceased, the Applicant approached them and collected the amount of Rs.10,00,000/-. However, nothing has been found in his possession.

Since the prosecution case is purely based upon the circumstantial evidence, the Appeal is preferred by the Applicant, contending that his conviction under Section 302 , based on the chain of circumstances which is full of loopholes and disconnect, cannot be sustained.

Since the Appeal is already admitted and the evidence will have to be appreciated, at the time of hearing of the Appeal, we are inclined to secure the release of the Applicant on bail, pending the Appeal and suspend the sentence imposed upon him, subject to the following conditions :-

: **ORDER** :

(a) Applicant -Dada alias Pravin Satish Pawar shall be released on bail, during the pendency of Criminal Appeal No.294 of 2017, on furnishing P.R. Bond to the extent of Rs.15,000/- with one or two sureties in the like amount.

(b) The Applicant shall mark his attendance in Kurduwadi Police Station, of first Monday of every trimester between 10.00 a.m. to 12 noon, till the Appeal is finally disposed off.

(c) On being released on bail, the Applicant shall furnish his contact number and residential address to the In-Charge of Kurduwadi Police Station and keep him/her updated, in case there is any change.

5. Interim Application No.4923 of 2024 stands disposed of in the aforestated terms.

(MANJUSHA DESHPANDE,J.)

(BHARATI DANGRE, J.)