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CR APPLICATION NO. 877 OF 2024

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO. 877 OF 2024
IN APPEAL/394/2023**

Sanjay Bharat Bangar
Age: 34 years, Occu.: Agriculture,
Resident of Murshet, Rajur,
Tal. : Akole, Dist.Ahmednagar,
Maharashtra 422 604.
(*Presently Lodged in Yerwada Central Jail, Pune*)Applicant

Versus

The State of Maharashtra
Through the Police Inspector,
Investigating Officer, Rajul Police Station,
Tal.: Akole, Dist.Ahmednagar.
(C.R.No.09/2022, Rajur Police Station,
Tal.: Akole, Dist.Ahmednagar)Respondent

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Advocate for Applicant : Mr. Pavan Mahendra Salunke and
Mr.Mohit Deoda
APP for Respondent : Mr.PK.Lakhotiya

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 25 FEBRUARY, 2025

PRONOUNCED ON : 26 FEBRUARY, 2025

ORDER :

1. Present application is for suspension of sentence and grant of bail on account of conviction recorded by Additional Sessions Judge, Sangamner, Dist.Ahmednagar, in Sessions Case No.35 of 2022 dated 27-02-2023.

2. Learned counsel for the applicant submitted that present applicant was tried vide Sessions Case No.35 of 2022 for commission of offence under Section 302 of the Indian Penal Code (IPC) and on trial, he held guilty for offence under Section 304 Part II and sentenced to suffer rigorous imprisonment for ten years and to pay fine. That, there are allegations that he beat his wife with stick as she refused to accompany him to cohabit and rather she wanted to stay with her parents. It is further submitted that there is possibility of accidental death. That, judgment and order of conviction has been challenged by filing appeal. That, appeal is of 2023. That, applicant is behind bars since long. That, appeal being of recent year, there are no prospects of appeal being heard earlier. That, already applicant is behind bars since more than two years. For all above reasons, learned counsel seeks suspension of sentence and grant of bail.

3. Learned APP opposed. He submitted that case is based on circumstantial evidence. That there is a witness, who had seen quarrel between applicant and deceased wife. That, there was beating by stick resulting into death. That, multiple injuries are noticed on the dead body and it is so evident from the post mortem report. That, applicant himself had shown the spot as well as dead

body and therefore, applicant has apparently committed murder of his wife and on full-fledge trial, he is held guilty. On all such grounds, learned APP opposed application.

4. Heard. Perused the papers. Present applicant was arrested and tried vide Sessions Case No.35 of 2022 and by judgment and order dated 27-02-2023 he seems to get convicted, but for offence under Section 304 Part II of the IPC. That, learned trial Judge has awarded sentence of rigorous imprisonment for ten years and to pay fine. By filing appeal bearing no.394 of 2023 exception seems to have taken to above judgment and order of conviction. In the trial Court, prosecution seems to have examined in all 9 witnesses. Admittedly, judgment and order of conviction for offence under Section 304 Part II of the IPC is already challenged by filing appeal. Prosecution claims case to be based on circumstantial evidence whereas theory of accidental death has been advanced by accused. Of-course, these are the aspects which are required to be dealt on merit during trial. Applicant was said to be on bail during trial. However, since date of conviction, he is said to be behind bars. As is seen, appeal is of 2023 and this Court is currently dealing with appeals of 2007. Resultantly, there are no immediate prospects of

appeal being heard on merits finally.

5. Taking the above discussion into consideration, relief of suspension of sentence and grant of bail is required to be granted.

Hence, the following order :

ORDER

- (i) Criminal Application is allowed.
- (ii) The substantive sentence imposed on the applicant Sanjay Bharat Bangar by the learned Additional Sessions Judge, Sangamner, Dist.Ahmednagar in Sessions Case No.35 of 2022 dated 27-02-2023, stands suspended till final hearing and disposal of Criminal Appeal No.394 of 2023.
- (iii) The applicant be released on P.R. Bond of Rs.15,000/- (Rs. Fifteen thousand only) with two solvent sureties in the like amount.
- (iv) The applicant shall not commit any criminal activity.
- (v) The applicant shall remain present before the learned trial Judge once in six months, till final hearing and disposal of the appeal, commencing from the date he tenders bail papers and thereafter, the trial Judge to fix dates for his subsequent appearances.

- (vi) In case of two consecutive defaults on the part of the applicant to remain present before the trial Court, the trial Court to inform this Court about the same and in that eventuality, the prosecution would be at liberty to file an application for cancellation of the bail granted to the applicant.
- (vii) Bail before the trial Court.

(ABHAY S. WAGHWASE)
JUDGE