



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO.2358 OF 2024
IN
CRIMINAL APPEAL NO.498 OF 2017

1. Santosh @ Balya Madhukar Gadhave,
2. Rameshwar Chandrakant KumbharApplicants

In the Matter in Between:

1. Santosh @ Balya Madhukar Gadhave,
2. Rameshwar Chandrakant KumbharAppellants

Vs.

The State of MaharashtraRespondent

Mr. Yash G. Fadtare, i/b. Mr. Jaydeep D. Mane, for the Applicants.
Mrs. P. P. Shinde, APP, for Respondent-State.

CORAM : REVATI MOHITE DERE &
DR. NEELA GOKHALE, JJ.

DATE : 21st JANUARY 2025.

P.C.:-

1. Heard learned counsel for the parties.
2. By this Interim 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 vide judgment and order dated 18th April 2017 passed by the learned Additional Session Judge, Barshi, Solapur

in Sessions Case No.190 of 2014 have been convicted for the offence punishable under Section 302 read with 34 of the Indian Penal Code. For the said offence, the Applicants have been sentenced to suffer imprisonment for life and to pay fine of Rs.5,000/- each, in default to suffer further Rigorous Imprisonment for three months.

4. Perused the papers

5. The prosecution case, rests on both, direct as well as circumstantial evidence. There are two eye witnesses in the said case, i.e. P.W.1-Amol Kumbhar and P.W.7-Azam Qazi. According to the P.W.1-Amol, the incident took place on 19th June 2014 at about 5:00 p.m. to 5:30 p.m. when he was present in the hotel. P.W.1-Amol has stated that Aleem Sayyed (deceased) came to the Hotel, after which the Applicants also entered the Hotel; that the Applicant No.2 asked Aleem (deceased) as to why he was asking them not to drink liquor, pursuant to which both the Applicants abused Aleem and manhandled him. It appears that some persons intervened in the said quarrel, after which the Applicants sat near the pan stall; and that later at about 9:00 to 9:15 pm., when he was pulling down the shutter of his Hotel and Aleem was crossing the main road, he saw that the Applicant No.2

had held Aleem's hands, after which the Applicant No.1 stabbed Aleem and ran away from the spot. Pursuant to the said assault, Aleem become unconscious and was rushed to the Rural Hospital, Pangri and thereafter shifted on the same day to another hospital. On the same day, Aleem was declared dead.

6. Learned counsel for the Applicants submits that the Applicant is in custody for more than 10 years, i.e., 10 years and 7 months and having regard to the judgment of the Apex Court, the Applicant be released on bail, considering that the Appeal is not likely to be heard in the near future.

7. We are informed by the learned counsel for the Applicants that the Applicants have no antecedents. Statement accepted.

8. It is not in dispute that the Applicants are in custody from 20th June 2014 for more than 10 years and 7 months from the date of their arrest (without remission). The Appeal is of the year 2017 and is not likely to be heard in the immediate near future. Even on merits, the case pertains to a single blow by the Applicant No.1 on the deceased.

9. Considering the aforesaid and in particular, the long

incarceration, the Application is allowed and the Applicants' sentences are suspended and they are enlarged on bail pending the hearing and final disposal of the 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.25,000/- each, with one or two sureties in the like amount;
- ii) The Applicants shall report to the trial Court, once in four months on the day/date specified by the trial Court, till their Appeal is finally disposed of;
- iii) The Applicants shall keep the trial Court informed of their current address and mobile contact numbers and/or change of residence or mobile details, if any, from time to time;
- iv) 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.

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

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

(DR. NEELA GOKHALE, J.)

(REVATI MOHITE DERE, J.)