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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 5027 OF 2024
IN
CRIMINAL APPEAL NO. 468 OF 2020

Arun Balaso Chavan ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Hrishikesh Mundargi i/b Ms. Pravada Raut for the Applicant.

Mr. V.B.Konde Deshmukh, Addl.PP for the Respondent-State.

CORAM : REVATI MOHITE DERE &
DR. NEELA GOKHALE, JJ.
DATE : 2nd APRIL, 2025

P.C. :

1. This is the second application preferred by the applicant seeking suspension of his sentence and enlargement on bail, pending the hearing and final disposal of his aforesaid appeal.
2. The first application preferred by the applicant was rejected by this Court (Coram : Prasanna B. Varale (as he then was) &

V.G. Bisht (now retired), JJ) vide order dated 17th December, 2020, on merits.

3. Since neither of the said Judge are available, we have taken up the aforesaid interim application for consideration. The said application has been filed after more than four and half years of the rejection of the first bail application. Learned Counsel for the applicant seeks bail not only on merits, but essentially on the ground of long incarceration.

4. The applicant vide Judgment and Order dated 13th March, 2020 passed by the Additional Sessions Judge – 1, Islampur, in Sessions Case No. 14 of 2017, 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 fine of Rs.5000/-, in default, to suffer simple imprisonment for six months.

5. Perused the papers. Primarily, the prosecution case rests on

the evidence of PW-5, PW-6 and PW-7. As far as the evidence of PW-7 – Kisan Chavan is concerned, he had seen the applicant and the deceased on 8th December, 2016 at about 9.30 to 9.45 p.m. walking towards the road, proceeding to the Karmala village. PW-5 – Sagar Chavan, the original complainant, had lodged a missing complaint on 9th December, 2016 i.e. that his brother – Prakash was missing from 8th December, 2016 when he had gone on the terrace of Shamrao Chavan's bungalow, for sleeping. It appears that PW-7 had disclosed to PW-5 on 10th December, 2016 that he had last seen the deceased and the applicant on 8th December, 2016. The evidence of PW-6 – Prathmesh Salunkhe, friend of the deceased, reveals that the deceased – Prakash had gone to the terrace of his house at about 9.30 p.m. for sleeping; that he received a call, pursuant to which, he told Prathmesh that he was going to meet his friend and that he would return within an hour, however, Prakash did not return. The dead body of the deceased was found on 11th December, 2016 in the field of Mahadev Chavan.

6. PW-8 – Dr. Chandarani Patil, who conducted the post mortem, has in his cross-examination deposed that in his opinion, the death had occurred 48 hours prior to the post mortem examination i.e. post mortem was performed on 12th December, 2016 (48 hours would be on 10th December, 2016). Although, there is recovery of an iron tommy and clothes of the applicant, no blood stains were found either on the tommy or the clothes. Three calls were made to the deceased i.e. from the phone of the applicant's father and the deceased's father, however, the prosecution has not examined either of the said witnesses.

7. The applicant is in custody with remission for about 10 years. The appeal is of the year 2020 and is not likely to be heard in the near future. The applicant has no antecedents.

8. Considering the aforesaid, in particular, the long incarceration of the applicant, 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

- i) 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;
- ii) The applicant shall report to the trial Court, once in six months on the day/date specified by the trial Court, till his Appeal is finally disposed of;
- iii) 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;
- iv) The applicant shall not contact any witness concerned with the case, during the said period;

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

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

DR. NEELA GOKHALE, J.

REVATI MOHITE DERE, J.