

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1324 OF 2024

WITH

INTERIM APPLICATION NO.4928 OF 2024

Santosh Shyamnarayan DubeyApplicant

Vs.

Union Territory Of Dadra

Nagar Haveli Daman And Diu & Anr.Respondents

Mr. Girish Kulkarni, Senior Counsel a/w Mr. Kripashankar Pandey,
Mr. Shyam Tripathi i/b Mr. Vivek B. Pandey, for the Appellant.

Mr. H. S. Venegavkar, for Respondent No.1/UT

Ms. S. S. Kaushik, APP for Respondent-State

CORAM : REVATI MOHITE DERE &

DR. NEELA GOKHALE, JJ.

DATE : 1st APRIL 2025.

P.C.:-

1. Heard learned counsel for the parties.
2. By this Interim Application, the Applicant seeks suspension of his sentence and enlargement on bail pending the hearing and final disposal of the aforesaid appeal.
3. The Applicant vide judgment and order dated 20th August 2024 has been convicted by the Learned Sessions Judge, Daman, at

Daman in Sessions Case No.09 of 2020 for the offences punishable under Section 302 r/w Section 34, Section 120B of the IPC and Section 27 of the Arms Act.

4. Perused the papers. According to the prosecution, the incident took place on 2nd March 2020. It is alleged by the prosecution that three people barged into a shop and fired at the persons present. One person succumbed to the said firing.

5. Admittedly, the Petitioner has not fired on the deceased. The three eye witnesses to the incident in question i.e. PW/4- Sajid Babul, PW/12- Kamlesh Mitna and PW/13- Mohmad Abdul Rauf Dayala, have not supported the prosecution's case and as such were declared hostile. The only evidence qua the Applicant is that his image was captured by the CCTV camera. However, there was no Section 65B certificate collected by the Police.

6. Apart from the same, there is recovery of an Aactiva Scooter at the instance of the Applicant. However, the said panch witness has also turned hostile. The Applicant is in custody since 28th April 2020. Considering the aforesaid, Application is allowed and the

Applicant's sentence is suspended and he is enlarged on bail pending the hearing and final disposal of his aforesaid 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) 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.

6. The Application is allowed in the aforesaid terms and is accordingly, disposed off.

7. All concerned to act on an authenticated copy of this order.

(DR. NEELA GOKHALE, J.)

(REVATI MOHITE DERE, J.)