



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO.144 OF 2025
(For Suspension of Sentence and Bail)
IN
CRIMINAL APPEAL NO.229 OF 2024

Mohammed Salim Alam ShaikhApplicant

In the Matter in Between:

Mohammed Salim Alam ShaikhAppellant

Vs.

State of MaharashtraRespondent

Ms. Chandni Chawla with Ms. Anaya Deokar, for Applicant.
Mr. V. B. Konde Deshmukh, Add. P. P., for the Respondent-State.

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

DATE : 17th MARCH 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 his aforesaid Appeal. The Applicant vide judgment and order dated 30th October 2023 has been convicted for the offence punishable under Section 302 of the Indian Penal Code by the learned Sessions Judge, Mumbai in Sessions Case No.727 of 2021. For the

said offence, the Applicant has been sentenced to suffer imprisonment for life.

3. Perused the papers. The prosecution case rests essentially on direct evidence, i.e. evidence of four eye-witnesses. From a perusal of the evidence of the eye-witnesses, i.e. P.W.3-Saiyad; P.W.4-Sanju; P.W.5:Bablu; and P.W.6-Firoz, it appears that the incident in question took place on 15th June 2020 and that the same is an outcome of a quarrel that took place between the deceased-Sagar and the Applicant. From the evidence of P.W.4-Sanju, it appears that one person (deceased) was trying to snatch something from the Applicant, pursuant to which the Applicant picked up a bamboo from the spot and assaulted the deceased on his head, 3 to 4 times. It appears that the deceased died after four days of the incident, i.e., on 19th June 2020. Learned counsel submitted that considering the manner in which the incident took place, the offence will not be one under Section 302 of the Indian Penal Code, but will constitute a lesser offence. The Applicant has no antecedents. The Applicant is in custody for about 4 years and 9 months.

4. Considering the manner in which the incident has taken

place and the Applicant's long incarceration, the Application is allowed and the Applicant's sentence is suspended and he is enlarged on bail on the following terms and conditions:

ORDER

- i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.20,000/-, with one or two sureties in the like amount;
- ii) The Applicant shall report to the trial Court, once in four 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 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.

5. The Application is allowed on the aforesaid terms and is accordingly disposed of.

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

(DR. NEELA GOKHALE, J.)

(REVATI MOHITE DERE, J.)