

**SUPREME COURT OF INDIA****Bench: Justices B.V. Nagarathna and Augustine George Masih****Date of Decision: 19<sup>th</sup> February 2024**

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2024

(@ Special Leave Petition (Crl.) No. 15292/2023)

**AVINASH ...APPELLANT(S)****VERSUS****THE STATE OF MAHARASHTRA ...RESPONDENT(S)****Legislation:**

Sections 302, 506, 143, 147, 148, 149, 120B, and 201 of the Indian Penal Code, 1860

Sections 3/25 and 4/25 of the Arms Act, 1959

Sections 37(1)(3) and 135 of the Maharashtra Police Act, 1951

**Subject:** Criminal appeal against the High Court's rejection of bail in connection with various offences including murder and criminal conspiracy under the IPC, Arms Act, and Maharashtra Police Act.

**Headnotes:**

Criminal Procedure – Bail – Appeal against rejection of bail application by High Court – Appellant facing trial for multiple offences – Appellant in custody for over five years – Only two witnesses examined out of 35 prosecution witnesses – Co-accused granted bail by Supreme Court – Bail application allowed by Supreme Court – Conditions imposed for bail – Appellant directed to cooperate in trial proceedings – Misuse of liberty cautioned against – Bail

to be cancelled in case of any violation of conditions – Appeal allowed. [Para 1-3, 5-6]

Bail Conditions – Trial Court directed to release appellant on bail – Conditions to be imposed by Trial Court to ensure appellant's presence in trial proceedings – Pending applications disposed of. [Para 2, 6]

**Referred Cases: None.**

## **ORDER**

Leave granted.

This appeal takes exception to the order dated 20.10.2023 passed by the High Court of Judicature at Bombay, Bench at Aurangabad in Bail Application No.1333 of 2023.

The appellant Avinash along with other accused has been facing trial in connection with Crime No.48 of 2017 registered with Police Station Shanishingnapur, District Ahmednagar for the offences punishable under Sections 302, 506, 143, 147, 148, 149, 120B. and 201 of the Indian Penal Code, 1860 and Sections 3/25 and 4/25 of the Arms Act, 1959 and Sections 37(1)(3) and 135 of the Maharashtra Police Act, 1951. Application seeking regular bail having been rejected by the High Court vide impugned order, the appellant has preferred the instant appeal.

This Court vide its order dated 04.12.2023, issued the notice in the instant matter.

Heard learned counsel for the appellant in support of the petition and learned counsel for the State and perused the material on record.

It is submitted by the learned counsel for the appellant that the appellant is in jail for more than five years; that charges were framed in the year 2019 and out of 35 prosecution witnesses, only two witnesses have been examined till date. On this ground alone, bail has been granted by this Court to co-accused Bhaurao and Lakhan @ Laxman, vide orders dated

24.03.2023 and 11.09.2023 respectively in Criminal Appeal No.926 of 2023 and Criminal Appeal No.2758 of 2023. He also submitted that co-accused are also on bail. Considering the facts on record, in our view, the case for bail is made out. We, therefore, allow this appeal and direct as under:

“The appellant Avinash shall be produced before the concerned trial Court as early as possible and the trial Court shall release him on bail, subject to such conditions as it may deem appropriate to impose to ensure his presence in the proceedings arising out of Case Crime No.48 of 2017 mentioned above.”

It is directed that the appellant shall extend complete cooperation in the trial of the instant case.

The appellant shall not misuse his liberty in any manner.

Any infraction of the conditions shall entail cancellation of bail granted to the appellant.

With these observations, the appeal is allowed.

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