

**HIGH COURT OF JAMMU AND KASHMIR
AT SRINAGAR
(Through Video Conferencing)**

...
IA no.01/2018
MP no.03/2018
In CRA no.01/2018
c/w Cr.Ref. no.02/2018

Hilal Ahmad Yatoo

..... Applicant(s)

Through: Mr S. T. Hussain, Senior
Advocate with Ms Nida Nazir, Advocate

Versus

State of J&K

.....Respondent(s)

Through: Mr B. A. Dar, Sr. AAG

CORAM:

**HON'BLE THE CHIEF JUSTICE
HON'BLE MR JUSTICE VINOD CHATTERJI KOUL, JUDGE**

**ORDER
28.05.2021**

1. Alongside Criminal Appeal, being CRA no.01/2018, an application (IA no.01/2018) has been filed by appellant/applicant, seeking stay of operation/execution of impugned Order of Sentence, passed by Principal Sessions Judge, Budgam (for brevity "*Sessions Judge*") by virtue whereof, appellant/applicant, has been sentenced to life imprisonment under Section 302/120-B RPC, and interim bail in favour of applicant has been implored for.
2. Another application, being MP no.03/2018, has been filed by applicant seeking grant of bail.
3. We have heard learned counsel for the parties and considered the matter.

4. It is discernible from the record on the file that on 22nd January 2012, a missing report no.16 was entered and all police stations in the Valley were informed through wireless message. During search police got information from their reliable sources that dead body of missing person, namely, Nazir Ahmad Dar, was lying near Masjid under a Culvert and it was suspected that he had been killed and to conceal the design, dead body had been dumped under the Culvert. On this information, police station Chadoora registered as case FIR no.10/2012 under Section 302 RPC. During investigation, dead body of Nazir Ahmad Dar was recovered. The charge sheet was produced before the court of law, mentioning therein, amongst others, name of present applicant as well as accused person, being involved in commission of offences punishable under Section 302, 120-B RPC. The trial concluded in conviction of accused persons, including present applicant for life imprisonment. It is against the said conviction and sentence that CRA no.01/2018 has been filed.

5. Learned senior counsel appearing for applicant has strenuously exhorted suspension of sentence and grant of interim bail in favour of applicant as according to him, learned Sessions Judge while rendering impugned conviction and sentence has not appreciated the facts and circumstances of the case in its proper perspective and that adjudication of Criminal Appeal would take a time and it would be apt to allow interim application. This submission of learned senior counsel has been stoutly objected by learned counsel for respondent. According to him,

applicant is involved in heinous offence and does not deserve to be given interim bail.

6. During course of arguments, learned senior counsel has stated that release of applicant on probation may be considered by this Court. To this Mr B.A.Dar, learned Sr. AAG, avers that release of applicant on probation is subject-matter of consideration by learned Sessions Judge that has convicted him and not by this Court. However, applicant may approach the appropriate authority for grant of parole.
7. Taking into account the submissions made by learned counsel for parties, applications – IA no.01/2018 and 03/2018, are **disposed of**, by providing that applicant may approach the appropriate authority with an application to release him on parole. In the event, such an application is made by applicant, the same shall be considered and decided by the authority in accordance with the law governing the field.
8. Let main matter come up on 19th July 2021.

(Vinod Chatterji Koul)
 Judge

(Pankaj Mithal)
 Chief Justice

Srinagar

28.05.2021

Qazi Amjad, Secy

Whether approved for reporting? No