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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CONFIRMATION CASE NO.2 OF 2017**

The State of Maharashtra .. Petitioner
vs.
Yogesh Ashok Raut & Ors. .. Respondents

**WITH
CRIMINAL APPEAL NO.459 OF 2018
WITH
INTERIM APPLICATION NO.2652 OF 2022
WITH
INTERIM APPLICATION NO.2654 OF 2022
IN**

CRIMINAL APPEAL NO.459 OF 2018

Mahesh Balasaheb ThakurAppellant
V/S
State of Maharashtra & Anr.Respondents

**WITH
CRIMINAL APPEAL NO.233 OF 2018**

Yogesh Ashok RautAppellant
V/S
State of MaharashtraRespondent

**WITH
CRIMINAL APPEAL NO.460 OF 2018**

Vishwas Hindurao KadamAppellant
V/S
State of MaharashtraRespondent

Mr.Hasan Nizami i/b Dr.Yug Mohit Chowdhry for the Appellant in Cr. Appeal No.460/2018 and for Respondent No.3 in CONF No.2/2017.

Ms.Rebecca Gonsalvez for the Appellant in Cr. Appeal No.459/2018 and for Respondent No.2 in CONF No.2/2017.

Mr.Vijay Hiremath a/w Mr.Swaraj Jadhav, Aditi Uniyal and Jay khotiya for the Appellant in Cr. Appeal No.233/2018.

Mr.Harshad Nimbalkar, SPP, Senior Advocate a/w Ms.Sangeeta Shinde, APP for the State.

**CORAM : BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ**

DATE : 27th JULY 2026

P.C. :

1 Interim Application No.2652/2022 is preferred by the Applicant/Appellant in Criminal Appeal No.459/2018, who has filed the Appeal being aggrieved by the Judgment delivered by the Additional Sessions Judge, convicting him under Sections 120B, 302 read with 120B, 376(2)(g) read with 120B, 404 read with 120B, 397 and 366 of the Indian Penal Code in Sessions Case No. 106/2010 and sentencing capital punishment. Upon the State having filed Confirmation Reference, Criminal Appeal is directed to be listed alongwith it.

2 The learned counsel Ms.Rebecca Gonsalvez representing the Applicant would insist upon the grant of reliefs in the Interim Application viz. permitting Ms.Nuriya Ansari to interview the Applicant in Yerwada Central Prison for the purpose of collecting information relevant to sentencing and to record the interviews

or permit the person nominated by her to accompany her to take notes during the interview.

This relief is sought in the backdrop of the order passed by the Hon'ble Apex Court in *Irfan @ Bhayu Mevati vs. State of Madhya Pradesh* in Criminal Appeal No.1667-1668/2021, wherein, an interlocutory application seeking permission for mitigating investigator is allowed on consideration of the averments in the Application and response of the State Government.

The nominated person was permitted to visit the Central Jail and conduct in-person interview with the accused and necessary directions were issued to the Jail Officials for permitting such interview to be conducted and granting access to go through all the records pertaining to the Applicant including the medical record, jail conduct, work done or education pursued in Central Jail etc.

Based upon the said order, the present relief is sought in the present Application.

2 Our attention is invited to the directions issued by the Hon'ble Apex Court in case of *Manoj & Ors. vs. State of Madhya Pradesh*, 2022 SC ONLine SC 677 and in particular Para Nos.2 to 7 onwards, where it is indicated that the Trial Court must elicit information from the accused and the State, both.

As far as the State is concerned, at the appropriate stage it is directed that it shall produce material which is to be preferably collected before the Sessions Court disclosing the psychiatric and psychological evaluation of the accused which

will establish the proximity to the accused persons frame of mind at the time of committing crime and offer guidance on mitigating factors spelled out in the Constitution by the decision in case of **Bachan Singh vs. State of Punjab** (1980) 2 SCC 684.

In addition, the State is also directed to collect additional information pertaining to the accused as set out in Para 2 to 8.

Upon this information being mandatory available to the trial Court, at the sentencing stage, an opportunity is also to be afforded to the accused to produce evidence in rebuttal towards establishing all mitigating circumstances.

3 Relying upon the aforesaid observation, it is the submission of Ms.Gonsalvez that the right to have his record being brought before the Court by way of a rebuttal, includes the right to collect the information by appointing a Mitigating Investigator and she would place reliance upon the aforesaid order.

In addition, reliance is also placed upon the latest order passed in case of **Aman Singh & Anr. vs. State of Bihar**, 2026 SCC OnLine SC 720, wherein the Apex Court had reiterated the guidelines issued in **Manoj & Ors** (supra) and noted that since the guiding factors have not been followed, there was a need to ensure meaningful legal representation in cases involving a potential death sentence and direction (f) in case of Aman Singh, the National Legal Services is directed to frame and circulate appropriate guidelines identifying the relevant fields of inquiry for gathering mitigating circumstances.

The direction is also very specific as it may permit

engagement of trained teams including legal and social professionals, to undertake field work involving interaction with the culprits, their family and relevant authority for the purpose of collecting detail information regarding background, antecedents, social, economic conditions, mental health status and other relevant factors. Such information is then to be made available to the appointed legal team which shall place it before the Court so that it can adopt a holistic and well documented account of the convicts potential for reformation alongwith all mitigating and aggravating circumstances so that an informed determination of sentence is arrived at.

4 The directions being issued on 27/04/2026, we direct the Registry to ascertain whether any such guidelines have been formulated and circulated to the State Legal Services Authority. In any case, what we only desire is that there should be no conflict of the exercise to be carried out as clause (f) of the directions in ***Aman Singh*** (supra) expect entire exercise to be carried out upon interaction with the convict, his family and relevant authorities to gather information about the background, antecedents, mental health status, socioeconomic conditions etc.

4 We must only express that if a private mitigator is appointed, he may also indulge in the same exercise and what we want to know from the State Government is, whether the duplication of this exercise shall be encouraged.

For this purpose, we would like to have response of the State Government to the Application specifically in the wake of the directions issued by the Apex Court in case of ***Manoj & Ors.***

(supra) as well as the directions issued in case of ***Aman Singh*** (supra), which is a recent order pronounced by the Apex Court, expecting the directions in ***Manoj & Ors.*** (supra) to be taken to its logical conclusion and to be followed in every case before conformation of a death sentence and though it is expected that it should be done at the trial Court level, in ***Aman Singh*** (supra), the Apex Court has specifically directed that if it is not done at the trial Court, then it shall be the first exercise which the High Court shall carry out when the death reference is listed before it.

We expect the learned senior Advocate Mr.Nimbalkar, SPP to obtain necessary instructions from the State in this regard.

List on 13/08/2026 under the caption 'For Directions'.

[MANJUSHA DESHPANDE, J.]

[BHARATI DANGRE, J.]