

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO.911 OF 2015
IN
CRIMINAL APPEAL NO.750 OF 2015
WITH
CRIMINAL APPLICATION NO.912 OF 2015
IN
CRIMINAL APPEAL NO.750 OF 2015**

Chandiprasad D. Badathwal ..Applicant/Appellant

V/s.

The State of Maharashtra

.. Respondent

Mr.A.S.Khandeparkar a/w Mr.Lokesh Zade i/by M/s.Khandeparkar
& Associates, for applicant/appellant.

Mr.P.P.Bhosale, APP for Respondent-State.

CORAM : A. R. JOSHI, J.

DATE : 28TH AUGUST 2015

P.C.

1. Heard learned counsel for the applicant-appellant on this application for bail and suspension of sentence during pendency of appeal. Appeal is already admitted. The applicant-appellant is convicted for the offences punishable under sections 307 and 506(2) of Indian Penal Code respectively sentences to suffer RI for 7 years and 2 years and to pay some fine amount.

2. Apparently the case of the prosecution is that the complainant and his two friends were returning back to Mumbai after enjoying their trip at Goa. When they were traveling in a luxury bus there was some sort of obstruction in viewing the video that was being played in the Bus. On this there was altercation and apparent fight between the applicant-appellant and the complainant and his friends. During that episode the complainant took out the revolver he was then possessing and fired bullet on the left thigh of the complainant causing through and through injury. Admittedly it was a case of the single fire and there were two wounds one exit wound and another entry wound on the left thigh of the complainant. Evidence of P.W.No.1 complainant show that during the said episode applicant-appellant fired bullet pointing towards his thigh. Defense of the accused was that there was a fight and the complainant and his friends tried to strangulate him and in that process one of the friends of the complainant snatched away the revolver and it accidentally went off causing injury to the complainant. Also according to the case of the prosecution and specifically as per the evidence of P.W.No.3 Constable who

got in the said luxury coach when the bus halted it Kharepatan Police Check Post, that the applicant-appellant was present in the bus and was having a revolver and which was taken charge by the police. There was nothing on record to show that the applicant-appellant was aggressive or tried to flee away. Also there is no substantive evidence of the driver of the vehicle to whom allegedly the applicant-appellant had given threat to continue the travel and not to halt the vehicle.

3. Considering the above factual position and the defense raised on behalf of the applicant-appellant, in the opinion of this Court there is a substance in the present appeal, so far as the applicability or otherwise of section 307 of Indian Penal Code. During the trial the applicant-appellant was on bail however, after the conviction he is taken in custody. In the opinion of this Court considering the nature of the evidence and considering that the final adjudication of the appeal will take much time the present application can be allowed. Hence order.

: : ORDER : :

1. The applicant be released on same bail as granted by the trial Court with fresh bond to be executed before the trial Court.
2. Sentence is suspended till final adjudication of the appeal.
3. Application is accordingly disposed of.

(A. R. JOSHI, J)