

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.2339 OF 2016 IN
CRIMINAL APPEAL NO.274 OF 2016

Nana s/o Jalindar Jagtap ... APPLICANT

VERSUS

The State of Maharashtra ... RESPONDENT

.....
Shri S.R. Sapkal, Advocate for applicant
Mrs. V.N. Patil (Jadhav), A.P.P. for respondent
.....

CORAM: A.I.S. CHEEMA, J.

DATED: 27th June, 2016.

ORAL ORDER :

1. Heard learned counsel for the applicant - original accused. He stated that, the applicant - accused was arrested and the trial was in respect of country make pistol and two live cartridges. According to the counsel, false case has been filed against the applicant. The counsel stated that, the applicant and his brother had a quarrel with concerned police officials as the brother was accused in some other matter and because of this

quarrel, the present case came to be filed.

2. The learned counsel submitted that, the record does not show that the applicant - accused had any criminal background or that he was involved in any other offence. Thus, according to the counsel, the sentence being short sentence, the applicant may be admitted to bail. It is stated that, the applicant was on bail during the trial and even after conviction, the sentence of imprisonment has been suspended.

3. Against this, the learned A.P.P. opposed the bail application, submitting that, while police was patrolling, the police saw three persons on motorcycle and when they were intercepted, a pistol and two live cartridges were found in the pocket of the applicant - accused. Ballistic report shows that the same were live cartridges and the pistol was in working condition. Thus, according to the A.P.P., the accused should not be released on bail.

4. Looking to the short sentence which has been passed, as well as the fact that no criminal background is shown or earlier offence is pointed out, and considering the fact that the applicant was on bail during the course of trial and after conviction the sentence of imprisonment has been suspended,

the accused should be released on bail. There is no material to show that while he was on bail in the trial Court the liberty was misused in any manner.

5. The application is allowed. Pending decision of Criminal Appeal No.274/2016, the sentence of imprisonment alone as passed against the applicant - accused shall stand suspended, subject to the applicant - accused furnishing P.R.B. and S.B. in the sum of Rs.20,000/- (Rupees twenty thousand) in the trial Court. The applicant - accused shall appear before the trial Court for compliance on this count on 4th July 2016. The trial Court, while admitting the applicant - accused to bail, shall add condition of - accused marking presence in the trial Court every three months, till disposal of the Criminal Appeal. Trial Court shall yearly send report in January of marking presence by accused in this regard to this Court till disposal of appeal.

(A.I.S. CHEEMA, J.)

fmp/cr2339.16