

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

CRIMINAL APPLICATION NO.2569 OF 2016 IN
CRIMINAL APPEAL NO.308 OF 2016

Vinod s/o Irappa Sathe ... APPLICANT

VERSUS

The State of Maharashtra ... RESPONDENT

.....
Shri S.S. Panale, Advocate for applicant
Shri K.D. Mundhe, A.P.P. for respondent
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CORAM: A.I.S. CHEEMA, J.

DATED: 27th June, 2016.

ORAL ORDER :

1. Heard learned counsel for the applicant - original accused. It is stated by the learned counsel that the applicant was charged with offence under Sections 307, 504 and 323 of the Indian Penal Code, but has been convicted under sections 326 and 324 of the Indian Penal Code. It is stated that, there is a short sentence of three and half years and the applicant was on bail during the course of trial, but after conviction, was taken in

custody. The counsel stated that, considering the earlier imprisonment as undertrial and the present imprisonment, the applicant has almost been in jail for about a year. The counsel stated that, the applicant was in live in relationship with the complainant P.W.4 Vanita, who was working as Police Constable. It is stated that, the complainant had lent money to people and the applicant has been unnecessarily involved in the offence. The defence of the applicant was of denial.

2. The learned A.P.P. submitted that, the applicant wanted a plot to be transferred from his brother and wanted to pay his brother Rs.30,000/-, which he claimed from the complainant. The complainant and the accused had earlier married. According to learned A.P.P., when the complainant did not give money as demanded by the accused, he caused various injuries to her by knife and one of the injuries was grievous injury, regarding which the medical evidence was also brought on record. The complainant was supported by another witness Sarika Digambar Sabne, who had taken the complainant to hospital and reached the spot after incident. The learned A.P.P. submitted that the applicant should not be released on bail.

3. Considered the case of prosecution, which shows that, at the spur of moment incident is alleged to have taken place. It is not the case of prosecution that it was premeditated attack. Considered the evidence of doctor as well as the length of sentence which has been passed. It would be appropriate to admit the applicant to bail with certain conditions.

4. The complainant and accused are stated to be residing in Latur. It is stated that, the complainant is working in Police Department and is a Constable. The address given by the applicant is of AUSA, Taluka AUSA, District Latur. It would be appropriate to not permit the applicant to enter the Municipal limits of city of Latur and to direct the applicant to remain away from the complainant Vanita Sabne till the decision of appeal. The learned counsel for the applicant agrees to such conditions being imposed.

5. For reasons stated, the application is allowed. The sentence of imprisonment alone is suspended during the pendency of the appeal subject to the applicant - accused depositing the amount of fine in the trial Court and further subject to the applicant furnishing P.R.B. and S.B. of Rs.20,000/-

(Rupees twenty thousand) before the trial Court.

6. The trial Court, while admitting the applicant - accused to bail, shall add conditions as under to remain in force till decision of appeal :

(i) That, the applicant shall not contact or trouble the complainant in any manner and shall not enter the Municipal Corporation limits of the city of La tur till decision of the appeal and in case there is any emergency, he shall take permission from the Superintendent of Police, Latur to enter the city.

(ii) The applicant shall be admitted to bail with further condition that the applicant shall attend the Court of Judicial Magistrate, First Class, Ausa every three months. The Judicial Magistrate, First Class, Ausa shall yearly send report in January regarding such attendance of the applicant to this Court through the Sessions Court.

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

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