

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

**CRIMINAL APPLICATION NO.5806/2016 IN
CRIMINAL APPEAL NO. 558 OF 2016**

**MAHADEO S/O PRABHAKAR DESHMUKH
VERSUS
THE STATE OF MAHARASHTRA**

**...
Advocate for Applicant : Patil Kalyan V.
APP for Respondents: Mr.S.P.Tiwari**

**...
CORAM : V.L.ACHLIYA,J.
DATE : 20/10/2016**

PER COURT :-

Heard learned counsel for the applicant and learned APP for respondent-State.

2] The applicant has moved this application seeking bail on the grounds set out in detail in the application.

3] The applicant was tried for committing offence under Sections 307, 324, 325, 326 of IPC with allegation that he has assaulted Subhash Deshmukh (PW3) by means of sickle and further caused grievous injuries to Nikita the daughter of applicant-accused and his mother Shantabai and wife Shamal.

4] On conclusion of the trial, the trial Court has convicted the applicant for committing offences under Section 326 and 323 of IPC. For committing offence under Section 326 of IPC ,the applicant is sentenced to suffer R.I. for 3½ years and fine of Rs.2000/-; for committing offence u/s 323 of IPC the applicant is sentenced to suffer S.I. for six months and fine of Rs.1000/-. The applicant is in jail since April, 2015.

5] Learned counsel for the applicant strenuously contended that the conviction of the appellant is not sustainable. All the material witnesses which includes the complainant, and the injured, have not supported the case of the prosecution. He further submits that the applicant has spent almost half of the period of sentence as under-trial prisoner. It will take long time to hear the appeal. He therefore, urged to release the applicant on bail. On the other hand, learned APP has opposed the application with contention that there is sufficient evidence to sustain the conviction though the material witnesses have turned hostile. He further submits that looking to the facts of the case, that applicant has assaulted his family members which includes the mother, wife and daughter, the applicant may not be released on bail.

6] In order to appreciate the submissions advanced, I have

perused the copies of depositions made available during the course of hearing by learned counsel for the applicant and further perused the impugned judgment and order. It is apparent from the copies of depositions that almost all the injured witnesses examined by prosecution have not supported the case of the prosecution probably for the reason that applicant is closely related with them. Looking to the sentence awarded and further taking into consideration that applicant has spent almost half of the period of sentence as undertrial prisoner, I am of the view that applicant deserves to be released on bail subject to certain conditions. Hence following order :

ORDER

I] Pending disposal of the appeal, execution of substantive sentence of imprisonment stands suspended from the date of release of applicant on bail.

II] Pending disposal of the appeal, applicant be released on bail on his furnishing bail in the sum of Rs.40,000/- with one or two surety in the like amount and preferably the sureties be from the family of the applicant, on following conditions :

A] Pending disposal of appeal, applicant shall report and record his appearance before the officer incharge of police station Latur Rural on every second and fourth Sunday in a month in between 10 to 11 a.m. till disposal of appeal.

B] The applicant shall not consume liquor and indulge into criminal activities.

C] Applicant shall furnish the names and addresses of his three close relatives with phone numbers.

7] In case applicant commits breach of any of the conditions of bail, prosecution as well as members of family of the applicant will be at liberty to move the Court for cancellation of bail.

8] Bail to be furnishing before trial Court.

(V.L.ACHLIYA,J.)

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