

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.784 OF 2016

IN

CRIMINAL APPEAL NO.481 OF 2016

Nitin Mahadev Dixit

.. Applicant

Versus

The State of Maharashtra

.. Respondent

Mr.Vikas B. Shivarkar, Advocate for the applicant.

Mrs. PPBhosale, APP for the Respondent State.

CORAM : PN. DESHMUKH, J

DATED : 18th AUGUST 2016

P.C. :

1 Heard learned counsel for the applicant as well as learned APP.

2 This is an application filed by accused for suspension of sentence imposed upon the applicant and for his release on bail, contended that applicant was tried for offence punishable under section 307, 325 of the IPC and by impugned judgment, is convicted for the offence punishable under Section 326 IPC, and is sentenced to suffer SI for 5(five) years and to pay a fine of Rs.2,000/- in default to suffer RI for 2 months. Applicant is acquitted for the offence under section 37(1) punishable u/s. 135 of Bombay Police Act and section 4 (25) of Arms Act. It is

submitted that during trial, applicant was on bail and it is no case of prosecution that while on bail, applicant has jumped any of the conditions imposed upon him.

3 Learned APP opposed the application on the ground that while he was on bail, Crime No.224/14 for the offence under Section 354, 452 of the IPC is registered against the applicant. It is also pointed out that from the evidence on record, it is found that applicant is involved in an offence causing grievous hurt to complainant – injured and by referring to the medical evidence on record, has contended that as per Doctor's evidence, PW no.2 Narsing Bhandari is sustained to have certified grievous injuries.

4 Having considering facts as aforesaid, and as punishment prescribed for the offence punishable under Section 326 IPC is of Life Imprisonment or Rigorous Imprisonment upto 10 years, and as applicant was charge-sheeted for the offence punishable under section 307 IPC and is held to be guilty for the offence punishable under section 326 IPC and is sentenced to suffer Simple Imprisonment for 5(five) years, application is liable to be allowed, as it is noted that applicant is directed to undergo short sentence of five years.

5 In that view of the matter, substantive sentence imposed upon applicant is liable to be suspended by releasing applicant on bail, pending Appeal, as per order below.

O R D E R

(i) Applicant shall be released on bail on his executing PR bond in the sum of Rs.20,000/- with one surety in like amount.

(ii) Applicant shall not indulge in any crime while on bail.

(iii) In the event applicant is found involved in any crime, his bail shall automatically stand cancelled.

(iv) Applicant shall mark his presence with Vadgaon Maval Police Station once in three months on first day of such month.

(PN. DESHMUKH, J)