

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

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders		Court's or Judge's orders
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CRIMINAL APPLICATION NO. 2207 OF 2017

IN

CRIMINAL APPEAL NO.172/2017.

APPA S/O. GULAB PHANDE

VERSUS

THE STATE OF MAHARASHTRA

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Advocate for Applicants : Mr.Salunke Sudarshan J
APP for Respondents/State: Smt.S.S. Raut.

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CORAM : V.L. ACHLIYA, J.

Dated: JUNE 06, 2017

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The applicant - appellant has moved this application seeking release on bail during pendency of appeal, for the reasons set out in detail in the application.

2. The learned Counsel for applicant strenuously contended that conviction of appellant for offence punishable under Section 307 IPC is not sustainable in law. She submits that there is no evidence, much less, to prove the guilt under Section 307 IPC. By referring testimony of injured Krishna (P.W.3),

learned Counsel pointed out that injured himself deposed in his examination-in-chief that in the quarrel going on between accused and informant, accused Ramji was beating informant by means of a knife but, the blow of said knife hit on his left side abdomen, which resulted in causing injury to him. It is, therefore, pointed out that there was neither motive nor premeditated quarrel. It is further argued that in order to attract section 307 of IPC, there must be intention or knowledge on the part of the assailant to cause death of a person. He, therefore, submits that there is arguable case to be considered in appeal. During trial, applicant was on bail.

3. On the other hand, learned APP opposed application with contention that there is strong case to connect the applicant with the offence punishable under Section 307 of IPC. The testimony of Krishna (P.W.3) is duly corroborated by Praveen (P.W.1) - eye witness to the incident. She submits that Majid Shaikh, Medical Officer (P.W.7) examined by the prosecution, has categorically deposed that if the injured would not have been given medical treatment immediately, the

injury might have resulted into causing death of injured. She, therefore, urged to reject the application.

4. On due appreciation of the submissions advanced in the light of the judgment and order passed by trial Court and, the testimonies of the witnesses referred above, I am of the view that arguable case is made out to be considered at the time of final hearing. Without going into details as to the merits and demerits of the case, I am of the view that prima facie there appears to be substance in the submission of the learned Counsel for the applicant that no interference can be drawn that accused had intention or knowledge as essentially required to establish offence punishable under Section 307 of IPC. Krishna (P.W.3) has categorically deposed that accused intended to inflict the blow on Praveen (P.W.1). Though that blow was avoided by Praveen, it landed on his body causing injury to abdomen, which leads to registration of offence under Section 307 of IPC. In this view, I am inclined to allow the application. During the trial, the applicant was on bail. There are no circumstances as such to infer that in

case the applicant is released on bail, he may abscond. Hence, the following order:-

: ORDER :

- (1) Pending disposal of the appeal, the execution of substantive sentence stands suspended subject to deposit of fine amount.
- (2) Pending disposal of the appeal, the applicant be released on bail on his furnishing bail in the sum of Rs. 50,000/- (Rupees fifty thousand) with one surety in the like amount, on following conditions.
 - (i) Pending disposal of the appeal, the applicant shall attend Police Station Majalgaon (Rural), Tq. Majalgaon, Dist. Beed, on last day of each month.
 - (ii) The applicant shall not indulge into any offence of similar nature during the pendency of the Appeal.
 - (iii) The applicant shall furnish the names of his three close relatives with their addresses and phone numbers.
- (3) In the event of breach of any of the conditions of bail, the bail granted to the applicant will be liable to be cancelled.
- (4) Bail be furnished in the trial Court.

- (5) The Officer In-charge of the concerned Police Station is directed to submit the report of compliance of conditions of bail after every six months.

5. Criminal Applications stand disposed of in above terms.

(V.L. ACHLIYA, J)

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