

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

**CRIMINAL APPLICATION NO.3468 OF 2017
IN
CRIMINAL APPEAL NO. OF 2017**

Nilesh s/o. Raosaheb Shinde,
Age – 27 years, Occ. Driver,
r/o. Karjat, Tq.Shahada,
Dist.Nandurbar ..Applicant

Vs.

The State of Maharashtra ..Respondents

--

Mr.N.B.Suryawanshi, Advocate for applicant
Mr.G.O.Wattamwar, APP for respondent

--

**CORAM : SANGITRAO S. PATIL, J.
DATE : AUGUST 22, 2017**

PER COURT :

Heard the learned Counsel for the applicant
and the learned A.P.P. for the respondent.

2. The applicant/original accused no.2 has
prayed for suspension of substantive sentence of
imprisonment passed against him in Sessions Case
No.159 of 2016 by the learned Additional Sessions
Judge, Ahmednagar, on 20.04.2017.

3. The learned Counsel for the applicant submits that there is no direct evidence to connect the applicant with the incident in question and nothing has been recovered from him so as to incriminate him. The applicant has challenged the conviction and sentence on various grounds by filing an appeal. The applicant was on bail during trial. He has not misused the liberty granted to him. The amount of fine has been deposited by him in the trial Court. The learned Counsel, therefore, submits that the applicant may be enlarged on bail by suspending the substantive sentence of imprisonment during pendency of the appeal.

4. The learned A.P.P. strongly opposes the application. He submits that the applicant was identified by the informant/victim during the T.I. parade. The spot of incident was shown by the applicant. There is sufficient evidence on record leading to the conviction of the applicant. He,

therefore, prays that the application may be rejected.

5. The incident has taken place on 23.08.2015 at about 00.30 hours near village Waghunde at Nagpur-Pune Highway. The assailants were unknown to the informant and others. The informant seems to have identified the applicant during the T.I. parade but he does not seem to have attributed any specific role against the applicant at the time of the alleged identification. No incriminating article has been discovered at the instance of the applicant. The spot of the incident was accessible to all and it cannot be said that it was seen for the first time at the instance of the applicant.

6. Considering the evidence of the prosecution against the applicant, the fact that the applicant was on bail during the trial, hearing of the appeal would take a considerable time and the applicant will have to be extended an opportunity of agitating his

grounds of objections against the conviction and sentence passed against him, I am of the view that it will be just, proper and expedient to suspend the substantive sentence of imprisonment passed against the applicant during pendency of the appeal.

7. Hence, the following order :-

O R D E R

(i) The substantive sentence of imprisonment passed against the applicant/appellant shall remain suspended until final decision of the appeal, on his furnishing personal bond of Rs.15,000/- (Rs.Fifteen Thousand) with one surety in the like amount. Bail bonds shall be furnished before the trial Court.

(ii) The application is accordingly disposed of.

[SANGITRAO S. PATIL, J.]