

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1059 OF 2017

IN

CRIMINAL APPEAL NO.657 OF 2015

PRITAM THAKARAM LALGUDE

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA

)...RESPONDENT

Mr.Niranjan Mundargi i/b. Mr.Santosh Musale a/w. Mr.Samsher Garud and Mr.Santosh Avhad, Advocate for the Applicant.

Ms.PN.Dabholkar, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 22nd SEPTEMBER 2017

P.C. :

1 This is an application by the applicant / accused for releasing him on bail by suspending the sentence imposed on him during pendency of the appeal filed by him. The applicant / accused has been convicted of offences punishable under Sections 307, 504 and 506 of the Indian Penal Code (IPC). For the offence

punishable under Section 307 of the IPC, he is sentenced to suffer imprisonment for 7 years apart from directing him to pay fine of Rs.40,000/-, in default, he is directed to undergo further imprisonment for 1 year. For the offence punishable under Section 504 of the IPC, he is sentenced to suffer imprisonment for 2 years apart from payment of fine of Rs.5,000/-. Similar sentence is imposed on him for the offence punishable under Section 506 of the IPC.

2 I have heard the learned advocate appearing for the applicant / accused. By drawing my attention to the order dated 1st February 2016, the learned advocate argued that earlier application moved by the applicant / accused was rejected with liberty to the applicant / accused to move afresh after nine months, if his appeal is not taken up for final hearing. By taking me through evidence of PW7 Samadhan Kshirsagar, the learned advocate argued that though it is averred that swords were used in assault, injuries suffered by PW1 Dnyaneshwar Mandlik are contused lacerated wounds. Those are not grievous injuries as

seen from evidence of PW7 Samadhan Kshirsagar. It is further argued that the applicant / accused was enjoying his liberty during pendency of the trial and he has not misused the same.

3 The learned APP opposed the application by contending that earlier bail application moved by the applicant / accused was rejected though the learned APP is accepting the fact that liberty is granted to the applicant / accused to move fresh application after nine months. The learned APP further relied on order dated 18th April 2017 passed in Criminal Application No.401 of 2017, whereby, application for temporary release of the applicant / accused on bail for medical treatment of his ailing wife was rejected by this court.

4 I have carefully considered the rival submissions. It is seen that the applicant / accused has undergone sentence of about 2 years and 9 months. The maximum sentence imposed on him is that of 7 years, as all sentences are directed to run concurrently.

5 Evidence of PW7 Samadhan Kshirsagar shows that informant PW1 Dnyaneshwar Mandlik had suffered contused lacerated wounds on his right and left forehead, occipital region and right hand. PW1 Dnyaneshwar Mandlik has deposed that weapons of offence were swords as well as wooden log. The Medical Officer is not deposing that injuries were grievous or serious in nature. The medical certificate at Exhibit 71 also does not reflect this fact. With this evidence, the question for determination at the final hearing will be whether it was an attempt to commit murder or whether some other offence was committed by accused persons.

6 Considering this nature of evidence against the applicant / accused as well as the fact that he has undergone substantial part of sentence imposed on him and as he was on bail during pendency of the trial, the following order :

- i) The application is allowed.
- ii) Substantive sentence imposed on the applicant / accused is suspended and the applicant / accused is directed to be

released on bail on his executing P.R.Bond in the sum of Rs.30,000/- and on furnishing surety in like amount.

- iii) As a condition of this order, the applicant / accused should report the concerned Police Station on every first Monday of each calendar months in between 11.00 a.m. to 1.00 p.m.
- iv) The applicant / accused should not contact in any manner either the injured PW1 Dnyaneshwar Mandlik or any of his relatives or friends and he should not commit any offence in future.
- v) Failure to observe these conditions shall result in suo motu cancellation of bail granted to the applicant / accused.

(A. M. BADAR, J.)