

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.1157 OF 2017
IN
CRIMINAL APPEAL NO. 677 OF 2017

1. Potal Bajirao Kotwal ...Applicants.
2. Amol Popat Kotwal.
Versus
The State of Maharashtra. _____ ...Respondent

Mr. Aniket U.Nikam a/w Mr.Piyush Toshniwal for the
Applicant
Mr. Rajan Salvi,APP for the State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.
DATED: 31st AUGUST, 2017.

PC:-

1. By this application, the Applicants have sought suspension of execution of substantive sentence imposed vide judgment dated 19.7.2017 passed by the learned Additional Sessions Judge, Pune in Sessions Case No.244 of 2014.
2. The Applicants have been held guilty of the offences under Section 307 and 326 r/w 34 of the Indian Penal Code. They have been sentenced to undergo Rigorous Imprisonment for 7 years in respect of each of these offences and further to pay fine of Rs.25,000/- in respect of offence under Section

307 and fine of Rs.10,000/- in respect of offence under Section 326 of the Indian Penal Code.

3. After arguing the matter at considerable length, the learned Counsel for the Applicants submits that he is not pressing for the relief of bail and suspension of execution of substantive sentence imposed against the Applicant No.1 Popat Bajirao Kotwal. The relief is sought only in favour of the Applicant No.2 Amol Kotwal.

4. Shri. Aniket U.Nikam, the learned Counsel for the Applicant submits that the evidence of the injured witnesses does not indicate that this Applicant had caused grievous injury to them or that he had intention of causing their death. He has submitted that the Applicant shall deposit the fine amount within 10 days. He therefore, prays that the execution of substantive sentence be suspended.

5. I have considered the submissions advanced by Mr.Aniket Nikam, the learned Counsel for the Applicant and

Mr.Rajan Salve, the learned APP for the State. I have perused the records and considered the submissions.

6. The evidence on record prima facie reveals that the Applicant Amol Kotwal was the Accused No.2 in Sessions Case No.244 of 2014. It is alleged that he was involved in inflicting injuries on Sachin Kotwal (PW-1) and Chandrakant Kotwal (PW-6). The testimony of Sachin Kotwal (PW-1) and Chandrakant Kotwal (PW-6) prima facie reveals that this Applicant had inflicted injuries on them by means of a Sickle. Sachin Kotwal (PW-1) and Chandrakant Kotwal (PW-6) were examined by Dr.Sunil Satav (PW-5). His testimony prima facie indicates that Sachin Kotwal (PW-1) had sustained CLW over right thumb and a bite mark on right arm, whereas Chandrakant Kotwal (PW-6) had sustained CLW on his right wrist. This witness has opined that the said injuries were simple in nature.

7. The injured Sachin Kotwal (PW-1) and Chandrakant Kotwal (PW-6) had not sustained grievous

injuries. The material on record prima facie indicates that the Applicant had not inflicted injuries on vital part of their body.

8. Furthermore, the Applicant was on bail during the pendency of the trial. There are no allegations of violation of bail bonds. Considering the nature of evidence, as against this Applicant, in my considered view, he is entitled to be released on bail by suspending the execution of sentence imposed vide judgment dated 19.7.2017 passed by the learned Additional Sessions Judge, Pune in Sessions Case No.244 of 2014. Hence the following order:-

ORDER

- (i) The Application as against the Applicant No.1 Popat Kotwal is dismissed as withdrawn.
- (ii) The Application as against Applicant No.2 Amol Kotwal is allowed;
- (iii) The execution of substance sentence imposed against Applicant No.2 Amol Kotwal imposed vide judgment dated 19.7.2017 passed by the learned Additional

Sessions Judge, Pune in Sessions Case No.244 of 2014 is suspended till final hearing and disposal of the Appeal on merits;

- (iv) Applicant No.2 is ordered to be released on bail on furnishing bail bond of Rs.30,000/-(Rs. Thirty thousand only) with one surety to the like amount to the satisfaction of the Sessions Judge, Pune;
- (v) The Applicant No.2 Amol Kotwal shall deposit the fine in the Sessions Court, Pune within 10 days;
- (vi) The Applicant shall furnish his contact number and permanent as well as local address, if any, and shall intimate change of address, if any, to the Investigating Officer, as well as to the concerned Court;
- (vii) The Applicant shall not interfere with the victim in any manner.

(ANUJA PRABHUDESSAI, J.)