

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.876 OF 2018

IN

CRIMINAL APPEAL NO.716 OF 2018

Irfan Nisar Pangarkar ... **Applicant**

V/s.

The State of Maharashtra ... **Respondent**

.....

Mr.R. D. Suryawanshi, Advocate for the Applicant.

Ms.Anamika Malhotra, APP for the Respondent/State.

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CORAM : A.M.BADAR J.

DATED : 26th JULY 2018.

P.C. :

1 This is an application for suspension of sentence and releasing the applicant/accused, who happened to be accused No.3 before the learned trial Court during pendency of the appeal filed by him.

2 The applicant/accused along with co-accused is convicted of the offences punishable under Sections 307 and 324 of the Indian Penal Code. And is sentenced to suffer rigorous imprisonment for five years and rigorous imprisonment for two

years respectively on each count apart from imposition of some fine and default sentence.

3 Heard the learned Advocate appearing for the applicant/accused. He argued that short sentence of imprisonment is imposed on the applicant/accused and he was on bail during pendency of the trial. The learned Counsel drew my attention to the observations of the learned trial Court in paragraph 21 of the impugned Judgment.

4 The learned Additional Public Prosecutor opposed the application by contending that the present applicant/accused had used sword for assaulting the injured.

5 I have carefully considered the rival submissions and also perused the record made available. The applicant along with the co-accused assaulted four persons namely P.W.No.3 Noor Ahmed, P.W.No.2. Ali, P.W.No.5 Masoom and P.W.No.1 Sultan. Injured had suffered injuries in the nature of CLW, blunt trauma, incised wounds etc.

6 It is undisputed that during pendency of the trial, the applicant was on bail. There is nothing on record to indicate that he has misused his liberty. Short sentence of imprisonment of five years is imposed on the applicant/accused and considering the

pendency of appeals before this court, the present appeal may not be heard within such short time. In this view of the matter, the following Order :

ORDER

- (i) The application is allowed.
- (ii) The substantive sentence of imprisonment imposed on the applicant/accused is suspended and he is directed to be released on bail on his executing P. R. Bond of Rs.25000/- and on furnishing one or two sureties in the like amount.
- (iii) As a condition of this Order, the applicant/accused to mark his attendance with the jurisdictional Police Station on every first Monday of each month between 10.00 a.m. to 11.00 a.m.
- (iv) The applicant/accused should not repeat commission of similar offence in future. Failure to abide by these conditions shall entail the prosecution to apply for rejection of his bail.
- (v) The application is disposed of accordingly.

(A.M.BADAR J.)