

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.877 OF 2018

IN

CRIMINAL APPEAL NO.717 OF 2018

Sarjerao Yashwant Jadhav @ Chavan ... **Applicant**
V/s.

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

.....

Mr.Umesh H. Pawar, Advocate for the Applicant.

Ms.Anamika Malhotra, APP for the Applicant.

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CORAM : A.M.BADAR J.

DATED : 21st JUNE 2018.

P.C. :

1 This is an application for suspension of sentence and releasing the applicant/accused on bail during pendency of the appeal filed by him.

2 The applicant/accused has been convicted of offences punishable under Sections 307 and 341 of the Indian Penal Code and for the offence punishable under Section 307 of the Indian Penal Code, he has been sentenced to suffer rigorous imprisonment for five years.

3 Heard the learned Advocate appearing for the applicant as well as the learned Additional Public Prosecutor appearing for the State. The learned Additional Public Prosecutor opposed the application by contending that there were injuries on person of the injured and the eye-witness has stated that there was no injury on person of the present applicant.

4 I have carefully considered the submission so advanced and also perused copies of depositions of prosecution witnesses.

5 P.W.No.5 Vasant Jadhav is injured witness. His injuries are narrated by P.W.No.11 Pramod Bhoi. The applicant as well as Vasant Jadhav are agriculturist by occupation. The incident took place because the applicant/accused apprehended that P.W.No.5 Vasant Jadhav has stolen his electric motor pump.

6 Evidence on record and more particularly that of P.W.No.7 Sunil Kamble as well as Investigating Officer P.W.No.10 Anil Gade goes to show that there was head injury to the applicant/accused attributable to the incident in question. At the time of arrest, the applicant/accused was having bandage around his head. *Prima facie*, it is seen that genesis of the incident is suppressed by the prosecution as head injury of the applicant/accused is not explained in the evidence of the prosecution. It was a defence of the applicant/accused that he had attempted to save his own life.

7 During pendency of the trial, the applicant/accused was on bail. Considering the nature of evidence available against him, I am of the opinion that his liberty needs to be restored. Therefore, the 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 in the sum of Rs.15,000/- and on furnishing one surety in the like amount.
- (iii) As a condition of this Order, the applicant/accused should not contact the victim of the crime in question, his relatives as well as the prosecution witnesses in any manner and he should not repeat commission of any offence in future.
- (iv) Application is disposed of accordingly.
- (v) Parties to act on authenticated copy of this Order.

(A.M.BADAR J.)