

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1491 OF 2018

IN

CRIMINAL APPEAL NO.1079 OF 2018

SHARAD KAMLAKAR LOKHANDE)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Ganesh Gole, Advocate for the Applicant.

Mr.S.V.Gavand, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 10th SEPTEMBER 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. The applicant/accused is convicted of offences punishable under Section 307 read with 34 of the Indian Penal Code, Section 120B read with Section 307 of the Indian Penal Code as well as under Section 135 of the Maharashtra Police Act. On first two counts, the applicant/accused is

sentenced to suffer rigorous imprisonment for 4 years each apart from imposition of some amount as fine. The substantive sentences are directed to run concurrently.

2 Heard the learned counsel appearing for the applicant/accused. He drew my attention to evidence of PW1 Chandu Sawant – injured witness, so also to evidence of PW2 Vishwas, who was accompanying PW1 Chandu Sawant. It is argued that there is no reliable and trustworthy evidence to convict the applicant/accused.

3 The learned APP opposed the application by contending that the crime in question is serious and the prosecution has established the Charge on the basis of evidence of the injured witness, apart from medical evidence.

4 I have considered rival submissions and perused the impugned judgment and order of conviction and the resultant sentence, so also the copies of deposition of prosecution witnesses.

Injured PW1 Chandu Sawant though attempted to support the prosecution by stating that co-accused Sanjay assaulted him by means of a chopper, in cross-examination he has stated that he suffered a fall on tin sheets causing injuries to his ear and hand. Another witness PW2 Vishwas has failed to support the prosecution case. Considering this nature of evidence as well as the short sentence imposed on the applicant/accused, the following order :

ORDER

- i) The application is allowed.
- ii) Substantive sentence of imprisonment 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.15,000/- and on furnishing surety in like amount.
- iii) As a condition of this order, the applicant/accused should not contact the injured and the prosecution witnesses.
- iv) The application is disposed of.

**Arti Vilas
Khatate**

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(A. M. BADAR, J.)