

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO.1691 OF 2018**

**IN**

**CRIMINAL APPEAL NO.1201 OF 2018**

Prem Mohan Shinde

**...Applicant**

V/s.

The State of Maharashtra

**...Respondent**

.....

Mr. Sachin D. Kadam, Advocate for the Applicant.

Mrs. M.R. Tidke, APP for the Respondent/State.

....

**CORAM : A.M.BADAR J.**

**DATED : 9<sup>th</sup> OCTOBER 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 is convicted for the offences punishable under Section 307 read with 34 of the Indian Penal Code as well as under Section 120B read with Section 307 of the

Indian Penal Code. On each count, he is sentenced to suffer rigorous imprisonment for four years apart from imposition of some amount as fine and in default to further undergo rigorous imprisonment for six months.

3. Heard the learned counsel appearing for the applicant/accused. He argued that role attributed to the present applicant by the prosecution is only catching hold of PW2 Vishwas, but the said witness has not supported the prosecution case. Even injured PW1 Chandu Sawant had stated that the injury suffered by him was as a result of his fall on the tin sheets. The main accused is already released on bail.

4. The learned APP opposed the application.

5. I have considered the rival submissions and also perused the impugned Judgment and Order of conviction, so also copies of deposition of prosecution witnesses.

6. Injured PW1 Chandu Sawant has stated in his cross examination that he suffered injuries because of a fall on tin sheets. According to the prosecution case, the applicant/accused was not the author of those injuries. PW 2 Vishwas has not

supported the prosecution case.

7. In this view of the matter, as the main accused is already released on bail, 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.15,000/- and on furnishing surety in the like amount.
- (iii) As a condition of this order, the applicant/accused should not contact the injured as well as the prosecution witnesses in any manner and he should not repeat commission of similar offence.
- (iv) The application is disposed of accordingly.

**(A.M.BADAR J.)**