

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL MISC. APPLICATION NO. 242 OF 2019
IN
CRIMINAL APPEAL NO. 53 OF 2019

MENINO FERNANDES, PRESENTLY
UNDERGOING SENTENCE AT CENTRAL
JAIL, COLVALE.,

... Applicant

Versus

STATE, THR. P.P.,

... Respondent

Mr. S. Shet, Advocate for the applicant.
Mr. Gaurish A. Nagvenker, Addl. Public Prosecuto for the
respondent.

Coram:- PRITHVIRAJ K. CHAVAN, J.

Date:- 27th September, 2019

P.C.

The applicant has been convicted and sentenced by the learned Additional Sessions Judge of an offence punishable under Section 307 of IPC. He is sentenced to undergo rigorous imprisonment for five years and fine of Rs.10,000/- (Rupees ten thousand only). He is also sentenced to undergo simple imprisonment for one year and fine of Rs.3,000/- (Rupees three thousand only) of an offence punishable under Section 326 of IPC.

2. The applicant has preferred this appeal inter alia praying for suspension of the sentence on the ground that he was on bail

during the trial and has a good case on merits. It is further submitted that it is basically a civil dispute between the uncle and nephew which had resulted in the incident in question. It is submitted that the fine amount has already been deposited in Sessions Court.

3. Mr. Nagvekar, learned Addl. Public Prosecutor opposed the suspension of sentence on the ground that though there is blood relationship between the complainant and the applicant, the applicant had assaulted the complainant with a knife which is a serious offence against the society. It is contended that the applicant has already been taken into custody and undergoing sentence and therefore, it would not be proper to release him on bail.

4. After hearing the learned Counsel for the applicant and the learned Addl. Public Prosecutor for the respondent, substantive sentence passed by the Additional Sessions Judge by the impugned judgment and order needs to be suspended as prima facie it appears to be an outcome of a civil dispute. It is not the contention of the learned Addl. Public Prosecutor that the applicant had some past criminal antecedents. No fruitful purpose would be served to incarcerate the applicant pending the appeal.

5. Having considered the aforesaid circumstances, execution of substantive sentence passed by the learned Additional Sessions Judge in the impugned judgment and order is suspended pending

the decision of the appeal on the following terms:-

- i. The applicant shall furnish a personal bond in the sum of Rs.20,000/- with one or two sureties in the like amount to the satisfaction of the Registrar(Judicial).
 - ii. The applicant shall not leave the jurisdiction of Sessions Judge, Margao without seeking prior permission.
 - iii. The applicant shall deposit his passport, if any, with the Investigating Agency.
6. Application stands disposed of in the aforesaid terms.

PRITHVIRAJ K. CHAVAN, J.