

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.119 OF 2019

IN

CRIMINAL APPEAL NO.117 OF 2019

Parashram @ Sajanan Sampat Patil	...	Applicant
V/s.		
The State of Maharashtra	...	Respondent

.....

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

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

....

CORAM : A.M.BADAR J.

DATED : 5th FEBRUARY 2019.

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 for the offences punishable under Sections 307 and 452 of the Indian Penal Code. On first count, he is sentenced to suffer rigorous imprisonment for five years and on second count, he is sentenced to suffer rigorous imprisonment for three years. Some fine so also the default sentence is also imposed on the applicant/accused.

2 Heard the learned Advocate appearing for the applicant/accused. He argued that the applicant is cousin of injured P.W.No.1 Lata and evidence of the injured shows that there was long standing dispute regarding partition of ancestral property between them. Even if evidence of the prosecution is accepted is outcome of this dispute. The learned Counsel further argued that even if the evidence of prosecution is accepted at this stage, then also offence punishable under Section 307 of the Indian Penal Code cannot be made out and therefore, the applicant/accused is entitled for bail.

3 The learned Additional Public Prosecutor opposed the application.

4 I have considered the submissions so advanced and perused the material placed on record.

5 Evidence of P.W.No.1 Lata shows that there was dispute between her family as well as family of the applicant over ancestral agricultural property. Fields of both the parties are adjacent to each other. Evidence of P.W.No.1 Lata shows that the applicant/accused was harvesting the sugarcane crop. P.W.No.1 Lata restrained the laboruer from harvesting the crop. Exchange of words then followed. This resulted in the assault by means of an axe by applicant/accused on P.W.No.1 Lata.

6 Evidence of P.W.No.6 Dr.Sujay Kabade shows that though axe was used as weapon of the offence, injury was not on vital part of the body. Therefore, at the time of final hearing it will be decided whether the applicant/accused has intended to commit murder or whether he has intended to cause grievous hurt to the victim. In this view of the matter, as the applicant/accused was on bail during trial, 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 he should not repeat commission of similar offence and he should not contact the victim of crime in question as well as her other relatives in any manner.
- (iv) The application is disposed of accordingly.

(A.M.BADAR J.)