

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 901 OF 2019

IN

CRIMINAL APPEAL NO. 1004 OF 2018

Dinesh @ Hanmant Ram Salunke ...Applicant

Versus

The State of Maharashtra ...Respondent

Mrs. Nagma Tondon - Advocate for the applicant

Mrs. J. S. Lohakare - APP for the Respondent - State

CORAM : DAMA SESHADRI NAIDU, J.

DATE : 25th JUNE 2019.

P.C. :

In Sessions Case No. 289 of 2016, the Additional Sessions Judge, Solapur, through judgment dated 20.06.2018, convicted the appellant, the sole accused, and sentenced him to seven years rigorous imprisonment. It was for the offence under Section 307 of IPC. The Trial Court has also imposed a fine of Rs. 6000/-, and the order of sentence reads as follows:

A) Accused Dinesh @ Hanmant Ram Salunke is convicted u/s 235 (2) of Cr. P.C. for the offence punishable u/s 307 of the IPC and sentenced to undergo rigorous imprisonment for seven years and to pay fine of Rs. 6000/- (Rs. Six Thousand only), in default of payment of fine to undergo further rigorous imprisonment for six months. Out of recovered amount of fine Rs. 5000/- be paid to the injured towards compensation for pain and agony of injuries suffered by him.

B) Muddemal property consist of clothes of injured and accused all of them being worthless be destroyed, seized knife is in rusted condition, it be sold as scrap and sale proceeds be credited to State, after appeal period is over.

C) Accused is in jail. He is entitled to get benefit of set off under the provision of Section 428 of Cr.P.C. in respect of period of detention already undergone by him.

2. Earlier this Court rejected the appellant's application for bail, but observed that he could revive his request in eight months. That is how the appellant has filed this application.

3. In response to the submission made by the applicant's counsel, the learned APP, on instructions,

informed the Court that the applicant has been in custody from the date of his initial arrest, that is 19.04.2016. Thus, he has been in jail even during the trial. Now, of the seven years, the applicant has already served more than three years.

4. Under these circumstances, I reckon it is a fit case for the Court to suspend the sentence and enlarge the applicant on bail subject to the following conditions:-

ORDER

(i) Application is allowed.

(ii) Substantive sentence imposed on the applicant is suspended and he is directed to be released on bail on his executing P.R. Bond for Rs.20,000/- and on his furnishing two sureties for the like amount.

(iii) Pending the appeal, the applicant should not contact the first informant, or any other witness, or victim or any member of the victim's family in any manner.

(iv) The applicant's failure to abide by these conditions will entail the prosecution to apply for cancellation of bail now granted to the applicant.

[DAMA SESHADRI NAIDU, J.]