

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.56 OF 2019

IN

CRIMINAL APPEAL NO.42 OF 2019

Bintu Pandharinath Bhoite ... **Applicant**

V/s.

The State of Maharashtra & Anr. ... **Respondents**

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Ms.Juanita Menezes i/b. Mr.Kuldeep S. Patil, Advocate for the Applicant.

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

None for the Respondent No.2.

Mr.A.D.Kedare, PSI, Chandwad Police Station, Nashik Gramin, Nashik.

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CORAM : A.M.BADAR J.

DATED : 28st JANUARY 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.

2 The applicant/accused is convicted for the offences punishable under Sections 354, 186, 189, 504 and 506 of the Indian Penal Code as well as under Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Different sentences are imposed on him on different counts. The highest amongst which is the rigorous imprisonment for seven years imposed on the applicant/accused for the offence punishable under Section 506 of the Indian Penal Code. The learned trial Court has directed that all substantive sentences shall run concurrently.

3 Heard the learned Advocate appearing for the applicant/accused. She argued that during pendency of the trial, the applicant/accused was on bail and he has not misused his liberty. She further argued that evidence of the alleged victim of the crime in question shows that it was the applicant/accused, who was lodging complaint of misappropriation and on the basis of application of the present applicant, the alleged victim of the crime in question was prosecuted.

4 The learned Additional Public Prosecutor opposed the application by contending that the offence alleged against the applicant/accused is serious and the same is held to be proved by the learned trial Court.

5 None appeared for the respondent No.2 despite service.

6 I have considered the submissions so advanced and also perused copies of depositions of prosecution witnesses as well as the impugned Judgment and Order of conviction and resultant sentence.

7 The alleged victim of the crime in question i.e. P.W.No.1 Yogita was working as *gramsevak* at Grampanchayat, Hivarkhede. The present applicant is the husband of the then Sarpanch of the village. As per version of the alleged victim of the crime in question, as the Grampanchayat has received grants of Rs.90,000/- from Zillha Parishad. The applicant/accused was demanding that amount for the purpose of election and on 06/08/2015, he had given casteist abuses and intentionally insulted P.W.No.1 Yogita. However, cross-examination of P.W.No.1 Yogita shows that the applicant/accused had filed complaint of misappropriation against P.W.No.1 Yogita and after examining the same, the then Additional Collector had ordered recovery of Rs.52,338/- from P.W.No.1 Yogita. She admitted that the applicant was making complaint against her that she was not performing her duties properly.

8 The applicant was on bail during pendency of the trial. He has not misused his liberty. Appeal filed by him may not be heard within short period. Hence, the 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) The application is disposed of accordingly.

(A.M.BADAR J.)