

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

CRIMINAL APPLICATION NO. 678 OF 2019

IN

CRIMINAL APPEAL NO. 645 OF 2019

Shankar Pandurang Daravade

...Appellant

Versus

The State of Maharashtra

...Respondent

Harshad E. Palwe i/b Rukmini Khairnar - Advocate for the
appellant

Mrs. J. S. Lohakare – learned APP for the respondent – State.

CORAM : DAMA SESHADRI NAIDU, J.

DATE : 25th JULY 2019.

P.C. :

The applicant has been charged with the offences under Sections 302, 504 and 506 of IPC. Upon trial, the Additional Sessions Court, Nashik, in Sessions Case No. 56 of 2017, acquitted the applicant under Section 302, but convicted him under Section 304 part II of IPC. As a result, he was sentenced to three years' rigorous imprisonment.

2. On 24.04.2019, when this matter came up for hearing, this Court found the sentence inadequate. Then it chose to issue

a notice of enhancement to the applicant.

3. Now, the applicant's counsel submits that out of the 36 months' sentence, the applicant has already completed 32 months. There remain just four more months to complete the sentence imposed on him.

4. The learned APP on her part has submitted that if two weeks' time is given, she will inform the authority and ascertain the steps, the State desires to take on this count—enhancement of sentence.

5. At any rate, if the applicant were to complete the sentence before the Court could decide on the sentence enhancement, he could not be kept in jail beyond the period already imposed. If the Court, in due course, enhances the sentence, the applicant must submit himself to the outcome and serve the reminder.

Under these circumstances, the State will have to ensure that the applicant does not flee the course of justice.

As a result, the sentence is suspended and the applicant is enlarged on bail subject to these conditions :

ORDER

(i) Criminal Application is allowed.

(ii) Substantive sentence imposed on the applicant/accused is suspended, and he is directed to be released on bail on his executing P.R. Bond for Rs.30,000/- and on his furnishing two sureties, each for the like amount.

(iii) Pending the appeal, the applicant/accused must inform the police if he is leaving his place of residence beyond one week.

(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/accused.

[DAMA SESHADRI NAIDU, J.]