

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 727 OF 2019
IN
CRIMINAL APPEAL (STAMP) NO. 651 OF 2019**

Shivaraya Pandit Bake	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Ritesh Thobde for the Applicant

Mr. P. H. Gaikwad, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
FRIDAY, 3rd MAY 2019

P.C. :

1 Heard learned counsel for the parties.

2 By this application, the applicant seeks suspension of his sentence and enlargement on bail, pending the hearing and final disposal of the aforesaid appeal.

3 The applicant along with other co-accused vide judgment and order dated 26th November 2018 passed by the learned Additional

Sessions Judge, Solapur in Sessions Case No. 217 of 2012, has been convicted and sentenced as under :

- for the offence punishable under Section 307 r/w Section 34 of the Indian Penal Code to suffer rigorous imprisonment for 8 years and to pay fine of Rs.3,000/- each, in default of payment of fine, to suffer further rigorous imprisonment for 6 months;
- for the offence punishable under Section 507 r/w Section 34 of the Indian Penal Code to suffer rigorous imprisonment for 2 years and to pay fine of Rs.1,000/- each, in default of payment of fine, to suffer further rigorous imprisonment for 3 months;

Both the sentences are directed to be run concurrently.

4 Learned counsel for the applicant submits that this Court vide order dated 10th April 2019 has enlarged co-accused Chandrakant @ Channu Ramchandra Mali and Mahanteshwar @ Mahantesh Chandrakant @ Kantu Patil, on bail. He submits that there is no material to show that the applicant was present at the spot at the time of the incident. He further submits that the statements of the alleged eye-witness i.e. PW 6 and PW 7 were recorded after 27 days of the

incident. He also submitted that no bullets were found on the spot where the alleged firing took place. He further submits that the applicant was on bail pending trial and that the applicant has not misused or abused the liberty granted to him.

5 Learned A.P.P does not dispute the fact that the applicant was on bail pending trial and that he has not misused or abused the liberty granted to him.

6 Perused the papers. It is not in dispute that the applicant was on bail pending trial and has not misused or abused the liberty granted to him. It is also a matter of record that the statements of both the eye-witnesses were recorded after almost 27 days of the incident. It is not in dispute that no bullets were found on the spot where the alleged incident took place. It is also not in dispute that the co-accused Chandrakant @ Channu Ramchandra Mali and Mahanteshwar @ Mahantesh Chandrakant @ Kantu Patil have been enlarged on bail vide order dated 10th April 2019.

7 Considering the aforesaid, the application is allowed and the applicant's sentence is suspended and he is enlarged on bail, pending the hearing and final disposal of his appeal, on the following terms and conditions:

ORDER

- i) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two local sureties in the like amount;
- ii) The applicant shall report to the trial Court, once in three months on the day/date specified by the trial Court, till his appeal is finally disposed of;
- iii) The applicant shall keep the trial Court informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time;
- iv) If there are two consecutive defaults in appearing before the trial Court, the learned Judge shall make a report to the High Court

and the prosecution would be at liberty to file an application seeking cancellation of bail.

8 The applications is disposed of accordingly.

9 All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.