

1. Heard the respective counsel.
2. This is an application under Section 389 Code of Criminal Procedure for suspension of substantive sentence. The applicant herein is convicted by the Additional Sessions Judge-7, Nashik, in Sessions Case No.293 of 2015, for the offences punishable under Sections 304 (II) of Indian Penal Code. The applicant is sentenced to suffer rigorous imprisonment for three years and to pay a fine of

Rs.10,000/-, in default to suffer rigorous imprisonment for two months. He has been given set off for a period of six months, 10 days for which he has been in jail.

3. The present applicant is original accused no. 4 in Sessions Case No. 293 of 2015. Perused the papers. There are in all 9 accused persons. The present applicant is acquitted of the offences punishable under Sections 143, 147, 148, 302 read with 149, 324 read with 149, 427 read with 149, 504 read with 149, 506 read with 149 of Indian Penal Code.

4. The role attributed to the present applicant is that he had caught hold of the victim- Saurav Barve alongwith Nilesh Borade to facilitate the assault by the other accused persons. It appears, prima facie, that he is not the author of fatal injury i.e. punctured wound on the back or of an injury to his head. In view of this, the applicant deserves to be enlarged on bail.

5. Learned counsel for the applicant submits that the applicant was on bail during pendency of the trial and has not

committed breach of any conditions imposed upon him and hence deserves extension of the same relief. It is also submitted that the applicant has been sentenced to a short term sentence and that there is no possibility of the appeal being finally heard in the near future. Hence, the following order is passed.

ORDER

- i) The application is allowed and disposed of.
- ii) The substantive sentence imposed upon the applicant vide judgment and order dated 10th May 2019 is hereby suspended.
- iii) The applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs.25,000/- with one or more solvent sureties in the like amount.
- iv) The applicant shall mark his presence before the Sessions Court, Nashik once in three months on the date assigned by the Sessions Judge.
- v) Upon failure to attend any two consecutive dates, the Sessions Court shall make a report to the High Court and the prosecution would be at liberty to file an application seeking cancellation of bail.

vi) The applicant shall not reside at Nashik Road for a period of three months from the date of his release and shall inform his address to the concerned police station.

(Smt. Sadhana S. Jadhav, J)