

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

**CRIMINAL APPLICATION NO. 944/2018
IN
CRIMINAL APPEAL NO.31/2018**

SURESH VITTHAL TELGAON)....APPLICANT.

V/s.

STATE OF MAHARASHTRA)... RESPONDENT.

Mr. Rahul S. Kadam for Applicant.

Mr.A.A.Palkar, APP for State.

CORAM : A. M. BADAR, J.

DATE : SEPTEMBER 19, 2019.

P.C. :

1. This application is filed by applicant, for suspension of sentence and for releasing him on bail during pendency of the Appeal.

2. The applicant along with the co-accused is convicted of the offence punishable under Section 143, 147, 148, 307 and 392 of Indian Penal Code. Different sentences are given on

different counts. Highest amongst them is of rigorous sentence for 10 years, for the offence punishable under section 307 of the Indian Penal Code. The learned trial court has directed that all substantive sentences shall run concurrently.

3. Heard learned counsel appearing for applicant/convicted accused Suresh Telgaon. He argued that in another incident, father of the co-accused Mahasiddha Chougule, came to be murdered and one member of the prosecution party namely Shrimant Chokhande accused in that case, came to be released on bail by this Court in Appeal. It is further argued that applicant Suresh Telgaon is brother of Mallappa Telgaon who is also accused in this case. There was previous enmity between prosecuting party and the accused party. Mallappa Telgaon is the Deputy Sarpanch of the village and to wreck vengeance, applicant Suresh Telgaon is falsely implicated in crime in question. My attention is drawn to para 6 of the cross examination of the injured Somling to buttress this contention. It is argued that as applicant has completed the sentence of about 2 years and one month, he needs to be

released on bail.

4. Learned APP opposed the application.

5. I have considered the submissions so advanced and perused the material placed on record.

6. Prosecution case, as revealed during the course of the trial through evidence of eye witnesses is to the effect that, at about 10.00 a.m. of 23.06.2010, when first informant Rajkumar Birajdar and Shrimant Chokhande were proceeding by motor cycle, accused Mahasidha and other 10 co-accused assaulted them. At about 11.30 a.m. of that day, injured Somling who happens to be brother of first informant Rajkumar Birajdar, got information of this assault. Somling alongwith the driver named Tamma then proceeded by tempo towards Mangalvedhya police station. On the way they were accosted by accused persons. Stones were pelted on the tempo. This caused injured Somling to flee from the spot alongwith the motor cyclist named Shivanna Koli. As that motor cycle ran out of petrol, Somling as well as Shivanna Koli

and Rajkumar Patil, took shelter of sugarcane field. After some time, while armed with swords and koytas accused persons, including applicant Suresh Telgaon, were successful in tracing out Somling. He was assaulted and his both hands were chopped off by sharp edged weapons. Testimony of injured, PW 2 Shivling reveals that apart from co-accused, applicant Suresh Telgaon gave blows of sharp edged weapon on his right hand. He deposed about giving of blows of sharp edged weapons on his left hand also. His testimony reveals that his both hands were chopped off in this assault. This version of injured Somling is corroborated by medical evidence adduced by prosecution on record.

7. Nature of the crime, degree of criminality shown while committing crime and circumstances of the case are relevant consideration for granting bail. Considering the fact that both hands of injured Somling were chopped off in the assault, in which even according to the injured witness, the applicant had participated, no case for grant of bail is made out. However, hearing of the appeal can be expedited. Hence, the order.

ORDER:

1. Application is rejected.
2. Hearing of Appeal is expedited.
3. Appeal be put up for hearing as soon as Paper Book is received.
4. In the alternative, parties are permitted to place on record private Paper Book.

(A. M. BADAR, J.)