

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

**902 CRIMINAL APPLICATION NO.1657 OF 2021
IN APEAL/377/2021**

**RAJESH DIGAMBER LOKHANDE
VERSUS
THE STATE OF MAHARASHTRA**

WITH

**CRIMINAL APPLICATION NO.2038 OF 2021
IN APEAL/377/2021**

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Advocate for Applicant : Mr. Asharaf Patel h/f Avhad Abhijeet P.
APP for Respondent—State : Mr. R.B. Bagul
Advocate for Respondent No. 2 : Mr. Sonal Bail h/f Mr. Harish Bail

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CORAM : N.R. BORKAR , J.

DATE : 28th October, 2021.

P. C. :

1. This is an application for suspension of sentence and to release the applicant on bail.
2. The applicant came to be convicted for the offence punishable under Section 307 of the Indian Penal Code (for short "IPC") and sentenced to suffer R.I. for 5 years and to pay fine of Rs. 5,000/-, in default to suffer S.I. for 1 month.
3. I have heard the learned counsel for the applicant and

the learned APP for Respondent-State and the learned counsel for the respondent No.2.

4. The learned counsel for the applicant submits that the injuries alleged to have sustained by the complainant are simple. It is submitted that the applicant was on bail during the trial and he did not misuse the liberty granted to him. It is submitted that the family of the applicant including his aged parents and small kids are dependent upon him. Accordingly it is submitted that the substantive sentence may be suspended and the applicant be released on bail.

5. On the other hand the learned APP for the respondent-State submits that the applicant is involved in the serious offence i.e. attempt to murder. It is submitted that assault was made on the neck of the complainant by knife. It is submitted considering the nature of the offence, sentence may not be suspended and the applicant may not be released on bail.

6. In paragraph No. 64, the learned trial Court has made following observations :

“The allegations made in the complaint and the evidence adduced by the prosecution witnesses certainly establishes beyond all the reasonable doubts that, it do constitute the ingredients of an attempt to commit

murder as provided in Section 307 of the I.P.C. The injuries sustained by the complainant, though, observed as simple in nature, it cannot be ruled out that, the offence is not within the ambit of Section 307 of I.P.C. In the case in hand, the intention to cause death or bodily injury to the complainant are convincingly established by the prosecution. The said intention is amply established by the overt act on the part of accused by causing severe injury by means of knife over the vital part of the person of the complainant.”

7. Considering the fact that injuries sustained by the applicant were simple and as the applicant was on bail during trial and he did not misuse the liberty granted to him, I am inclined to suspend the substantive sentence and release the applicant on bail. Therefore, following order is passed :

ORDER

- a. Application is allowed.
- b. Substantive sentence imposed by the trial Court by order impugned is suspended.
- c. The applicant be released on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand) with one surety in the like amount.
- d. Bail before the trial Court.

**(N.R. BORKAR)
JUDGE**