

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

**911 CRIMINAL APPLICATION NO.1938 OF 2021
IN APEAL/487/2021**

**RAJESH NAGNATH WAGHMODE
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicant : Mr.Wani Girish V.
APP for Respondent-State : Mrs.G.L.Deshpande
...

**CORAM : N.R. BORKAR , J.
DATE : 22nd October, 2021.**

P. C. :

1. This is an application under Section 389 of the Code of Criminal Procedure (for short "Cr.P.C.") for suspension of sentence and to release the applicant on bail.

2. The applicant came to be convicted in Sessions Case No. 96 of 2015 for the offence punishable under Section 307 of the Indian Penal Code (for short "IPC") and sentenced to suffer simple imprisonment for 10 years and to pay fine of Rs. 1,000/-, in default to suffer further simple imprisonment for 15 days. The applicant has been further convicted for the offence punishable under Section 452 of the Indian Penal Code and sentenced to suffer simple imprisonment for 7 years and to pay fine of Rs. 1,000/- , in default to suffer further simple imprisonment for 15 days.

3. I have heard the learned counsel for the applicant and the learned APP for the respondent-State.

4. Learned counsel for the applicant submits that the applicant is a teacher. It is submitted that no motive is attributed to the applicant for the alleged assault. It is further submitted that the applicant is in jail practically for 5 years. It is submitted that considering these facts, substantive sentence be suspended and the applicant be released on bail.

5. On the other hand, learned Additional Public Prosecutor for respondent-State submits that the applicant is involved in serious crime i.e. attempt to murder. It is submitted that the applicant assaulted the injured by knife. It is submitted that considering the nature of the offence, the sentence imposed by the trial Court may not be suspended and the applicant may not be released on bail.

6. Learned counsel for the applicant has tendered on record the jail warrant issued by the trial Court. The said jail warrant is taken on record and marked "X" for identification. It appears from the jail warrant the applicant was in jail from 17.09.2012 to 19.11.2012, 17.09.2015 to 16.10.2015 and now he is in jail from 22.7.2017 till date. It is thus apparent that the applicant has already undergone approximately 5 years of the sentence. This appears to be the solitary

case against the applicant. Considering all these facts, I am inclined to allow the present application. In the result following order :

ORDER

- a. Application is allowed.
- b. The substantive sentence imposed by the trial Court against the applicant namely Rajesh Jagannath Waghmode is suspended and he is released on bail on his furnishing P.R. bond in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand) & one surety in the like amount.
- c. Bail before the trial Court.

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

mahajansb/