

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

**CRIMINAL APPLICATION NO. 2573 OF 2021
IN
CRIMINAL APPEAL NO. 547 OF 2021**

Rahul Radhakisan Raut	.. Applicant
Versus	
The State of Maharashtra	.. Respondent

....
Advocate for the Applicant : Mr. Joslyn Menezes
A.P.P. for Respondent-State : Mr. S. P. Sonpawale
...

**CORAM : N.R. BORKAR, J.
DATE : 24.11.2021**

PER COURT :-

This is an application under Section 389 of the Code of Criminal Procedure (for short 'Cr.P.C.') for suspension of substantive 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 and sentenced to suffer rigorous imprisonment for four years and to pay a fine of Rs. 1000/-.

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

4. The learned counsel for the applicant submits that,

according to the medical certificate of injured at Exh.64 the nature of injury is simple. It is submitted that the applicant was on bail during the trial and he did not misuse the liberty granted to him. Learned counsel for the applicant submits that the applicant has good case on merit. Accordingly, it is submitted that substantive sentence be suspended and the applicant be released on bail.

5. On the other hand, learned A.P.P submits that the applicant is involved in serious offence of attempt to murder. It is submitted that the applicant/accused assaulted the injured on neck by knife. It is submitted that for the offence punishable under Section 307 of the Indian Penal Code, the intention is material and not injury. It is submitted that considering the nature of the offence, substantive sentence may not be suspended and applicant may not be released on bail.

6. Admittedly, the nature of injury is simple. The applicant was on bail during the trial. Considering these facts and the fact of short term of sentence I am inclined to suspend the substantive sentence and release the applicant on bail. In the result, following order is passed :

O R D E R

(I) Application is allowed.

- (ii) Substantive sentence imposed by the trial Court on the applicant, vide impugned judgment and order, is suspended and the applicant be released on bail on his executing P.R bond in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand) with one surety in the like amount.
- (iii) Bail before the trial Court.

(N. R. BORKAR)
JUDGE

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