

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 499 OF 2021
IN
CRIMINAL APPEAL NO. 131 OF 2021**

Ganesh Ramesh Pawar	...Applicant
Versus	
State of Maharashtra	...Respondent

Mr. Vikram R. Sutaria for the Applicant.

Mr. S.V.Gavand, A.P.P for the Respondent-State.

CORAM : REVATI MOHITE DERE, J.
DATE : 23rd APRIL, 2021
(Through Video Conferencing)

P.C. :

1. Heard learned Counsel for the parties.

2. By this application, the applicant seeks suspension of his sentence and enlargement on bail, pending the hearing and final disposal of his appeal.

3. The applicant, vide judgment and order dated 04/12/2020

passed by the learned Additional Sessions Judge, Thane in Sessions Case No.159 of 2015, has been convicted and sentenced as under :-

- for the offence punishable under Section 148 of the Indian Penal Code to suffer rigorous imprisonment for 1 year and to pay fine of Rs.1,000/-, in default to undergo further simple imprisonment for 1 month;
- for the offence punishable under Section 307 r/w 149 of the Indian Penal Code to suffer rigorous imprisonment for 7 years and to pay fine of Rs.7,000/-, in default, to undergo further simple imprisonment for 3 months;
- for the offence punishable under Section 25(1-A) of the Arms Act, to suffer rigorous imprisonment for 5 years and to pay fine of Rs.5,000/-, in default, to undergo further simple imprisonment for 3 months;

The applicant was acquitted of the offence punishable under Section 37(1) r/w Section 135 of the Maharashtra Police Act.

All the substantive sentences were directed to run concurrently.

4 Learned Counsel for the applicant states that similarly, placed

co-accused have been released on bail except accused No.1 - Bhardwaj @ Bala Kishor Londhe. He submits that the applicant is in custody for more than 2 ½ years and has already undergone more than 1/3rd of his sentence. He submits that as far as accused No.1 - Bhardwaj @ Bala Kishor Londhe is concerned, he has not filed any appeal against his conviction and sentence/Bail Application.

5. Learned APP submits that the applicant, whilst on bail, has committed an offence. Learned Counsel for the applicant, on instructions, states that the applicant will not commit any other offence nor will he intimidate or threaten any of the witnesses involved in the said case. He states that the applicant, on being released on bail, will file a proper undertaking in this Court in the aforesaid appeal.

6. It is not in dispute that similarly, placed co-accused have been released on bail and their sentences suspended vide orders dated 18/02/2021 and 12/03/2021. The applicant has undergone 1/3rd of his sentence till date. The evidence on record shows that the injured PW-1-Sunil Kandbhar had sustained three injuries which were simple in nature. The appeal is not likely to be heard in the immediate near future.

7. Considering the aforesaid, the application is allowed and the applicant's sentence is suspended and he is enlarged on bail, pending the hearing and final disposal of his appeal, on the following terms and conditions :-

ORDER

- i) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- with one or two sureties in the like amount;
- ii) The applicant shall report to the trial Court, once in two months on the day/date specified by the trial Court, till his appeal is finally disposed of;
- iii) The applicant shall file an undertaking in this Court that he will not intimidate, threaten any of the witnesses involved in the said case, whilst on bail. The said undertaking to be filed in the Registry of this Court within two weeks of his release in the aforesaid appeal.
- iv) The applicant shall keep the trial Court informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time;
- v) If there are two consecutive defaults in appearing before the trial Court, the learned Judge shall make a report to the High Court and the

prosecution would be at liberty to file an application seeking cancellation of bail.

8 It is noted that accused No.1 - Bhardwaj @ Bala Kishor Londhe has not filed any appeal against his conviction and sentence, probably because of his financial constraints to engage an Advocate.

9. Accordingly, Registry is directed to inform accused No.1 - Bhardwaj @ Bala Kishor Londhe of his legal right to file an appeal and bail even through jail. If necessary, he can also seek the assistance of High Court Legal Services Committee.

10. Registry to communicate the said order forthwith to the Superintendent, Thane Central Jail who, in turn, will take appropriate steps of informing the accused No.1 - Bhardwaj @ Bala Kishor Londhe as stated aforesaid.

11. The application is accordingly disposed of.

12. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.