

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 802 OF 2021
IN
CRIMINAL APPEAL NO. 203 OF 2021

Prasanna @ Babalu Bhaguram Humane	...Applicant
Versus	
State of Maharashtra	...Respondent

Mr. Harshad A. Sathe for the Applicant.

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

CORAM : REVATI MOHITE DERE, J.
DATE : 12th MARCH, 2021

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 along with co-accused, vide judgment and order dated 4th December 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 for the offence punishable under Section 37(1) r/w Section 135 of the Maharashtra Police Act.

All the substantive sentences were to run concurrently.

4 Perused the papers. It appears that the applicant was on bail, pending trial and that he has not abused or misused the liberty granted to him. A perusal of the injuries sustained by Sunil Kandbhar (PW 1-injured) reveals that he had sustained (i) Laceration (Incised Laceration) at lower back left, size 15 cm length linear; (ii) CLW on left deltoid region, size 1 cm x 1 cm x 1 cm; (iii) CLW on left forearm exterior aspect, size 4 cm linear.

5 Learned Counsel for the applicant submits that all the injuries sustained by the applicant are simple in nature and that no offence under Section 307 of the Indian Penal Code is disclosed *qua* the applicant. He submits that the applicant is not the person who is alleged to have assaulted the injured i.e. PW-1 Sunil Kandbhar. He further submits that the allegations as against the applicant is that he was standing with a sword and was threatening the passers-by's / witnesses.

6 The appeal has been admitted by a separate order passed today. The sentence awarded is a short term sentence. It is not in dispute that the applicant was on bail, pending trial and that he has not misused or abused his liberty. The appeal is also 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.20,000/- with one or two sureties in the like amount;

- ii) The applicant shall report to the trial Court, once in three months on the day/date specified by the trial Court, till his appeal is finally disposed of;

- iii) 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;

- iv) 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 The application is accordingly disposed of.

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

REVATI MOHITE DERE, J.