

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 800 OF 2021
IN
CRIMINAL APPEAL (ST) NO. 4056 OF 2021

Shivaji @ Shiva Kalyan Thakur	...Applicant
Versus	
State of Maharashtra	...Respondent

Mr. Santosh B. Bhamre a/w Mr. Swapnil Patil 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, vide judgment and order dated 04/12/2020 passed by the learned Additional Sessions Judge-1, 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 It is a matter of record, that the applicant was not on bail, pending trial. The applicant is in custody since 27/06/2015, for more than

5 years. The maximum sentence imposed is 7 years. The evidence of PW-7 Dr. Sameer Vilasrao Vyahalkar shows that the three injuries sustained by the injured-Sunil Kandbhar are simple in nature. Prima facie, having regard to the aforesaid injuries, it is doubtful whether the offence would be one under Section 307 of the Indian Penal Code. In any event, the applicant is in custody for more than 5 years. The appeal is admitted by a separate order passed today in the aforesaid appeal. The same is not likely to be heard in the immediate near future.

5. 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 released on cash bail in the sum of Rs. 15,000/-, for a period of eight weeks;
- (ii) The applicant shall within the said period of eight weeks, furnish P.R. Bond in the sum of Rs. 15,000/- with one or two sureties in the like amount;

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

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.

6. The application is accordingly disposed of.

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

REVATI MOHITE DERE, J.