

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 2434 OF 2021
IN
CRIMINAL APPEAL NO. 835 OF 2021**

Kailash Shankar Bacchav

.... Applicant

v/s.

The State of Maharashtra and anr.

.... Respondents

Mr. Jayendra Khairnar for the Applicant.

Mr. P.H. Gaikwad, APP for the State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 15th DECEMBER, 2021.

P. C. :-

1. This is an Application under section 389 of Cr.P.C. for suspension of substantive sentence imposed by judgment dated 30/08/2021 in Sessions Case No.15/2017. By the impugned judgment, the learned Additional Sessions Judge, Malegaon has held the Applicant guilty of offence under section 307 of the Indian Penal Code and sentenced him to undergo rigorous imprisonment for ten years with fine of Rs.50,000/- in default to suffer rigorous imprisonment for six months for offence under section 307 of IPC ; rigorous imprisonment for one month for offence under section 341 of IPC.

2. The Applicant along with eight other accused were charged for committing offences under sections 143, 147, 148, 307, 323, 341, r/w.

149 of IPC. It was the case of the prosecution that the Applicant and the other co-accused formed an unlawful assembly armed with deadly weapons with common object of causing death of Eknath Sonawane. In furtherance of the common object, the Applicant and others assaulted him by means of sickle, kicks and blows. The learned Judge has acquitted all the other accused and has held the Applicant guilty of offence under sections 307 and 341 of IPC.

3. It is to be noted that PW2 – Eknath Sonawane (injured) had alleged that this Applicant had inflicted a blow of sickle on his neck. This is the only role attributed by the Applicant. The medical evidence does not prima facie indicate that the injured had sustained any grievous injuries on the neck or vital parts of the body.

4. Considering the nature of evidence as against the Applicant, this would be a fit case to suspend the substantive sentence pending hearing of the Appeal. Hence, the Interim Application is allowed on following terms and conditions :-

(a) Substantive sentence imposed against the Applicant by judgment dated 30/08/2021 in Sessions Case No.15/2017, is suspended pending hearing of the Appeal ;

(b) The Applicant shall be released on bail on furnishing P.R. Bonds in the sum of Rs.15,000/- with one or two solvent sureties in the like amount to the satisfaction of the Trial Court ;

(c) The Applicant shall report to the Trial Court once in two months on the day/date specified by the Trial Court, till the Appeal is finally disposed of ;

(d) The Applicant shall keep the trial Court informed of his current address and mobile/contact numbers and/or change of residence or mobile details, if any, from time to time ;

(e) 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 application seeking cancellation of bail.

5. Interim Application stands disposed of accordingly.

**PREETI
H JAYANI**

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(SMT. ANUJA PRABHUDESSAI, J.)