

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

**INTERIM APPLICATION NO. 2492 OF 2021
IN
CRIMINAL APPEAL NO. 849 OF 2021**

Akash Suresh Pawar

.... Applicant

v/s.

The State of Maharashtra

.... Respondent

Mr. Chetan Damre for the Applicant.

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

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 07th DECEMBER, 2021.

P. C. :-

. This is an Application under section 389 of Cr.PC. filed by the aforesaid Applicant for suspension of substantive sentence imposed by judgment dated 22/07/2021 in Sessions Case No.218/2018. By the impugned judgment, the learned Sessions Judge, Nashik has held the Applicant guilty of offence under section 304 Part-I r/w. Section 34 of the Indian Penal Code and sentenced him to suffer rigorous imprisonment for seven years with fine of Rs.1,000/- each, in default to undergo simple imprisonment for three months.

2. Heard Mr. Chetan Damre, learned counsel for the Applicant and Mr. P.H. Gaikwad, learned APP for the State. I have perused the records

and considered the submissions advanced by the learned counsel for the respective parties.

3. The case of the prosecution is that on 29/01/2018, the Applicant and the co-accused – Tushar came to the place of the incident on a motorcycle. The Applicant who was a pillion rider slapped the deceased – Baban. There was a scuffle between the Applicant and the deceased and the Applicant stabbed the deceased in his stomach. The learned Judge has observed in paragraph 68 of the judgment that the incident had occurred without premeditation in a sudden fight and in a spur of the moment.

4. It is stated that the Applicant is in custody since last three years and ten months. He has undergone half of the sentence. In view of the aforesaid facts and circumstances, this is 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 22/07/2021 in Sessions Case No.218/2018, 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.20,000/- 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.)