

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Criminal Application [APPA] No.62 of 2021
in
Criminal Appeal No.56 of 2021

Atish Vinod Hatwal

vs.

State of Maharashtra, through PSO Dhamangaon Railway, Amravati.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri M.N. Ali, Advocate for the Appellant.
Ms. T.H. Udeshi, A.P.P. for the Respondent/State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATE : 2nd FEBRUARY, 2021.

This is an application filed under Section 389(1) of the Code of Criminal Procedure (Cr.P.C.) for suspension of sentence and for grant of bail.

02] The appellant was accused No.3 in Special Case No.169/2016 on the file of Additional Sessions Judge-2, Amravati. The charge against the appellant was that on 22/12/2015 at 11:40 p.m., he along with two other accused with common intention voluntarily caused hurt to Shankar Gulabrao Waghmare. It was the case of the prosecution that said Shankar Waghmare had expired as a result of the injuries sustained in the said incident. Charge was framed by the Special Court for the offences under Sections 302, 324, 504 read with Section 34 of the Indian Penal Code, Sections 3(1)(x) and 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Atrocities Act') and Section 4

read with Section 25 of the Arms Act, on the basis of the F.I.R. and other material gathered during the course of investigation. The Special Court after considering the evidence on record has convicted the appellant and other two accused for the offences punishable under Sections 304-II, 324 read with 34 of the I.P.C. They have been acquitted in respect of the offences under Sections 3(1)(x) and 3(2)(v) of the Atrocities Act and under Sections 302, 504 read with Section 34 of the I.P.C.

03] Perusal of the evidence of PW-1 and the other eye-witness indicates that the appellant was not involved in inflicting the fatal blow. Learned Special Judge has also recorded a finding that a single fatal blow was inflicted by the co-accused and that the said blow was given in a fit of moment in a course of sudden fight.

04] Considering the allegations levelled against the appellant as well as the nature of evidence, in my considered view, this appellant is entitled for bail. Moreover, it is stated that he was on bail during the course of the trial and there was no instance of this appellant interfering with the witnesses and/or misusing the liberty granted to him during pendency of the trial. The appellant undertakes to deposit the fine amount within three weeks. Hence, the following order :

ORDER

- i. The application is allowed.

- ii. Till final disposal of the appeal, the sentence is suspended. The appellant be released on bail on furnishing a Personal Bond to the tune of Rs.50,000/- with one surety in the like amount.
- iii. The appellant shall not leave the State without prior permission of the Court.

Criminal Appeal No.56/2021:

Heard.

Admit.

Call for records and proceedings.

JUDGE

**sandesh*