

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

Criminal Application [APPA] No.68 of 2021
in
Criminal Appeal No.61 of 2021

Sidhartha Jyotiram Awale

vs.

State of Maharashtra, through PSO Mankapur, Nagpur

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

Court's or Judge's Orders

Shri Tarun Parmar, Advocate for the Applicant-Appellant.
Shri H.D. Dubey, A.P.P. for the Respondent/State.

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

This is an application under Section 389 of the Code of Criminal Procedure for suspension of sentence and release of the appellant on bail.

02] The appellant was charged for committing offence under Section 307 of the Indian Penal Code, Section 25 of the Arms Act and Section 135 of the Bombay Police Act. Crime against the appellant was registered pursuant to the F.I.R. lodged by Madhuri Dule. It was the case of the prosecution that on 02/12/2016, the appellant had inflicted several injuries on victim Vandana with a weapon described as Sattur (sharp edged weapon) akin to a big knife and had thereby attempted to commit her murder.

03] The trial Court after considering the evidence on record, has held the appellant guilty of offence under Section 307 of IPC and has sentenced him to undergo imprisonment for a period of seven years and to pay fine of Rs.10,000/-.

04] Learned Counsel for the appellant states that PW-8 Mukesh Thakry had recorded the incident on his mobile phone. He states that the said clip was given to the Investigating Officer, however, the same was not produced before the trial Court and does not form part of the evidence. He further submits that the Sessions Court has not appreciated the evidence properly.

05] Perusal of the record indicates that the case of the prosecution is based on the testimony of the injured-PW-2 Vandana, which is also corroborated by independent eye witnesses viz. PW-3 Vijay and PW-8 Mukesh. The testimony of PW-2 Vandana and PW-3 Vijay indicates that the appellant had inflicted injuries on Vandana by means of Sattur. The medical evidence indicates that the victim had sustained as many as 29 injuries. Several injuries in the nature of incised wounds and chop wounds inflicted on parietal region, occipital region and other vital parts of the body.

06] Considering the nature of the offence, the nature of injuries inflicted, the evidence in support of the charge and the reasons recorded by the learned Judge, in my considered view, this is not a fit case for suspension of sentence. Hence, the application is dismissed.

Criminal Appeal No.61/2021:

Heard.

Admit.

Call for records and proceedings.

JUDGE