

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

931 CRIMINAL APPLICATION NO.2402 OF 2022
IN APPEAL/544/2022

ILIAYAS IBRAHIM SHAIKH
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Ms Almas Abdul Quader
APP for Respondent: Mr G.O. Wattamwar
Advocate for Respondent No. 2 : Mrs Anuradha S. Mantri

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 25th AUGUST, 2022

PER COURT :

1. It is an application for suspension of sentence and bail moved by the applicant/original accused.
2. Heard Ms Almas Abdul Quader, learned counsel for the applicant, Mr G.O. Wattamwar, learned APP for the State/respondent No.1 and Mrs Mantri, learned counsel for respondent No.2/appointed.
3. Ms Almas Abdul Quader, learned counsel for the applicant submitted that the applicant was on bail during the trial. After conviction, he was also released on bail by the trial court by suspending sentence. He submitted that the fine amount is deposited with the trial court. She therefore urged to release the applicant on bail by suspending the sentence.
4. Mr G.O. Wattamwar, learned APP for the State and Mrs Mantri, learned counsel appointed for respondent No.2 strongly opposed to suspend the sentence and release the applicant on bail. They submitted

that the trial court was pleased to suspend the sentence till appeal period i.e. 22.07.2022. The applicant was required to surrender before the Court after the appeal period is over. He has committed the breach of the order and as such, not proper to release him on bail by suspending the sentence.

5. They further submitted that the age of the victim at the time of incident was six years and by considering this aspect, it cannot be proper to release him on bail.

6. I have considered the submissions of both the sides. It is revealed during the course of argument that the applicant/accused was on bail during the trial. Even after awarding sentence, he was released on bail by the trial court by suspending the sentence. True that the sentence was suspended till appeal period i.e. upto 22nd July, 2022 and he was supposed to obtain order from this Court. He has not obtained the order from this Court for suspension of sentence. As such, he was required to submit to the jail authority soon after that period is over. Be that as it may, there are no extraordinary circumstances to keep him behind the bars during the appeal period. The conviction awarded against the applicant/accused is three years. The applicant/accused has deposited the entire fine amount with the trial court. There are no chances to take up the appeal for final hearing in near future.

7. In view of the above, the application needs to be allowed.

ORDER

- (i) The criminal application is hereby allowed.
- (ii) The substantive sentence passed against the applicant in Special Case No. 338/2018 by the Additional Sessions Judge, Ahmednagar is hereby suspended till final decision of the appeal.
- (iii) The applicant – Iliayas Ibrahim Shaikh shall be released on bail on his furnishing P.R. Bond of Rs. 20,000/- (Rupees Twenty Thousand Only) with one or two solvent sureties of the like amount on following conditions :-
 - (a) The applicant shall furnish his in-detail address with Cell Nos. with the concerned trial court as well as to the concerned Police Station.
 - (b) Bail before the trial court.
 - (c) The applicant shall not enter into the area of the victim where the victim resides till final decision of the appeal.
- (iv) The Criminal Application is accordingly disposed of.

[SHRIKANT D. KULKARNI, J.]