

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

**INTERIM APPLICATION NO.2398 OF 2022
IN
CRIMINAL APPEAL NO.729 OF 2022**

Alankar Abhijit Mulik Applicant

versus

State of Maharashtra Respondent

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- Mr. Umesh R. Mankapure, Advocate for Applicant.
- Smt. M. R. Tidke, APP for the State/Respondent.

**CORAM : SARANG V. KOTWAL, J.
DATE : 05th DECEMBER, 2022**

P.C. :

1. This is an application for bail pending final disposal of the Criminal Appeal preferred by the Applicant. The Applicant was convicted and sentenced by Additional Sessions Judge, Kolhapur, vide his Judgment and Order dated 02/05/2022 passed in Sessions Case No.246/2019. The Applicant was convicted for the commission of offence punishable u/s 307, 504, 506 r/w 34 of the Indian Penal Code. The major punishment imposed on him was simple imprisonment for 8

years besides imposition of fine. He was sentenced for lesser period for other offences.

2. Heard Mr. Umesh R. Mankapure, learned counsel for the Applicant and Smt. M. R. Tidke, learned APP for the State.
3. The prosecution case is that on 26/12/2018 the Applicant had tried to extort money from one Tanaji Mane who was cousin of the victim Umesh Mane in this case. On 27/12/2018 again the Applicant had gone to the house of Umesh and had threatened his family. After that, the victim Umesh along with Sambhaji Mane and Tanaji Mane went to the place near a tree to meet the Applicant and to have discussion with him. At that time, the Applicant was having a sickle in his hand. When the victim and others tried to speak to him, the Applicant gave a blow with sickle on Santosh Kshirsagar. He avoided that blow. Then the Applicant tried to give a blow on Umesh's head. Umesh put his left hand to protect his head. The blow landed on his left hand causing injury to his left hand and

head. After that Sambhaji, Tanaji and Santosh took him to hospital. Then the offence was registered.

4. Learned counsel for Applicants submitted that the Medical Officer Dr. Arunkumar Deshmukh who is examined as P.W.14, has not opined that the injury was dangerous to life. He submitted that the Applicant was not the aggressor. He was on bail and during that period he has not committed any offence.
5. Learned APP opposed this application. She relied on the medical evidence to contend that the injury was quite serious and therefore offence u/s 307 of the Indian Penal Code is made out.
6. I have considered these submissions. Umesh had suffered 8 cms long bone deep injury on major portion of his left palm. He had suffered CLW on left parietal scalp of the size 2.5 cms.

7. The injury to his hand is quite long and there is one more injury on the head. However the evidence of the victim Umesh shows that the victim and his 3 friends Tanaji, Sambhaji and Santosh had gone to the place where the Applicant was standing with his friends. The Applicant had not gone to the victim for assaulting him at the time of incident. Even after that particular blow, though he was having weapon, no further blows were inflicted on Umesh. At that time Umesh and his 3 friends were helpless and were not carrying any weapons and yet the Applicant has not given any further blows. Therefore whether the ingredients of section 307 including the intention and knowledge are proved or not, will have to be decided during final hearing stage of the Appeal. The Applicant was on bail during trial. He has not misused the liberty. There are some allegations about the incident dated 26/12/2018. The Applicant was a young boy of 19 years of age at the time of incident, as is mentioned in the title of the trial Court's judgment. In this view of the matter, some leniency can be shown to the Applicant for granting bail pending Appeal. However some conditions are also required to be imposed on him to curb his criminal activities.

8. Hence, the following order :

ORDER

- (i) During pendency and final disposal of the Criminal Appeal No.729 of 2022, the Applicant is directed to be released on bail on his furnishing P.R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand only), with one or two sureties in the like amount.
- (ii) The Applicant shall not enter the village Ujalaiwadi, Taluka Karveer, District Kolhapur, for a period of 3 years from today.
- (iii) The Applicant shall report to the nearest police station where he will be staying during that period, once every month.
- (iv) The Applicant shall inform the Investigating Officer of this case about his place of residence during his stay.
- (v) Interim Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)