

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.3149 OF 2021
IN
CRIMINAL APPEAL NO.1039 OF 2021

Soumaiyya Amir Shaikh

Appellant

versus

The State of Maharashtra and another

Respondents

Mr.Rushikesh a. Mohite for applicant.

Ms.Ameeta Kuttikrishnan, Advocate for respondent nos.2 and 3.

Mr.PH.Gaikwad, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 25th March 2022

PC :

1. The applicant has filed this application under Section 389 of Code of Criminal Procedure for suspension of sentence imposed by judgment dated 23rd November 2021 in Atrocity Special Case No.6 of 2016, Ichalkaranji, Kolhapur.

2. Heard learned counsel for applicant and learned counsel for respondent no.2.

3. The applicant has been held guilty of offences under Sections 363 and 366A r/w 34 of Indian Penal Code r/w Section 3(2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and sentenced to suffer rigorous imprisonment for four years and to pay fine of Rs.1,000/- in default to suffer rigorous imprisonment for three months for each of the offence. Both the sentences are to run concurrently.

4. The maximum sentence imposed is of four years. The appeal is of the year 2021 and is not likely to come up for final hearing in the next couple of years due to large pendency of old cases and the current situation arising from Covid-19 pandemic.

5. The applicant was on bail during pendency of trial. There is nothing on record to indicate that applicant has violated the terms and conditions of the order. By order dated 21st December 2021 interim bail was granted to applicant by suspending sentence of imprisonment.

6. Considering the above facts, in my considered view, this is a fit case to suspend execution of sentence till next date of hearing. Hence the order :

ORDER

- (i) Interim Application is allowed and disposed of;
- (ii) Substantive sentence imposed against the applicant by judgment and order dated 23rd November 2021 in Atrocity Special Case No.6 of 2016, Ichalkaranji, Kolhapur by Additional Sessions Judge, Ichalkaranji and Special Judge under SC & ST (Prevention of Atrocity) Act is suspended, and applicant is directed to be released on bail on executing PR bond in the sum of Rs.15,000/- with one or two solvent sureties in the like amount to the satisfaction of Trial Court;
- (iii) The applicant is permitted to furnish cash bail in the sum of Rs.15,000/- for a period of ten weeks in lieu of sureties;
- (iv) The applicant shall attend Trial Court once in six months on First Saturday of the month till disposal of the Criminal Appeal;

- (v) In the event there are two consecutive defaults in attending the Trial Court, the Trial Court shall submit report to this Court;
- (vi) In the event of default committed by the applicant in attending the Trial Court, the prosecution will be at liberty to prefer application for cancellation of bail.

(PRAKASH D. NAIK, J.)

MST