

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

**INTERIM APPLICATION NO. 3429 OF 2021
IN
CRIMINAL APPEAL NO.1066 OF 2021**

Fakroddin Abdul Ajij Jamadar

...Applicant/
Appellant

Versus

State of Maharashtra

...Respondent

Mr. Mohd. Saifan Mulla, Advocate for the Applicant/
Appellant.

Mr. Arfan Sait, APP for the Respondent – State.

Mr. M. G. Gaikwad, Sadar Bazar Police Station, Solapur City,
Present.

**CORAM : PRAKASH D. NAIK, J.
DATE : 10th JANUARY, 2022.**

PER COURT:

1. This is an application for suspension of sentence and grant of bail during the pendency of the appeal preferred by the appellant challenging the judgment and order dated 12-11-2021 passed by the Additional Sessions Judge, Solapur convicting the appellant for offence punishable under Sections 307 of Indian Penal Code (for short “IPC”) and sentencing him to suffer rigorous imprisonment for 3 years.

2. Learned Advocate for the applicant submitted that the judgment of the trial Court suffers from several

infirmities. There are no independent witness to support the prosecution case. All the witnesses examined by the prosecution are interested witnesses. The applicant was on bail during the trial. He has not misused the facility of bail. On the date of conviction the trial Court has suspended the sentence of imprisonment to enable the applicant to prefer an appeal before the Higher Court. The said order is in operation till today.

3. Learned APP submitted that, specific role is attributed to the applicant having assaulted the injured on vital part with knife. The medical evidence shows that the injury was grievous. The trial Court has awarded the lessor sentence although the conviction is for offence punishable under Section 307 of IPC. The judgment of the trial Court does not indicate any reasons for awarding only three years imprisonment conviction for offence under Section 307 of IPC. There is evidence of eye witnesses including the injured witness which has been considered by the trial Court while convicting the applicant.

4. The applicant has preferred an appeal challenging the impugned judgment of conviction. The applicant has urged several grounds challenging the judgment of

conviction. The applicant was on bail during the trial. Sentence is of 3 years imprisonment. The trial Court has suspended the sentence on the date of judgment of conviction vide Section 389 of Cr.P.C. and the applicant has been released on bail on his furnishing PR and SB in the sum of Rs.50,000/-.

5. The sentence is of short term. The appeal would not reach for hearing immediately. Considering the aforesaid circumstances, the sentence of imprisonment can be suspended.

6. Hence, I pass the following order:

ORDER

- i. Interim Application No. 3429 of 2021 is allowed;
- ii. During the pendency of Criminal Appeal No.1066 of 2021, sentence of imprisonment awarded by the Court of Additional Sessions Judge, Solapur vide Judgment and Award dated 12-11-2021 in Sessions Case No.51 of 2019, convicting the applicant for offence under Section 307 of IPC is suspended and the applicant is directed to be released on bail on executing P.R. Bond in the sum of Rs.20,000/- with one or more sureties in the like amount;

iii. To enable the applicant to furnish surety bond as stated above, the order passed by the Sessions Court suspending the sentence shall continue for a period of four weeks.

iv. Interim Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)