

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 411 OF 2022

IN

CRIMINAL APPEAL NO. 98 OF 2022

Dhananjay Shivaji More

...Applicant/Appellant

Versus

The State Of Maharashtra

...Respondent

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Mr. Anand S. Shalgaonkar a/w Mr. Kuldeep S. Navale, Advocate
for the Applicant/Appellant

Ms. P. N. Dabholkar, APP for the Respondent – State.

CORAM : PRAKASH D. NAIK, J.

DATE : 1st MARCH, 2022.

PER COURT:

1. This is an application for suspension of sentence and grant of bail. The applicant has been convicted vide judgment and order dated 5th January, 2022 passed by the learned Additional Sessions Judge, Pune, in Sessions Case No.560 of 2015 for offence under Section 307 of Indian Penal Code (for short "IPC") and sentenced to suffer rigorous imprisonment for five years and to pay fine of Rs.75,000/-.

2. The case of the prosecution is that there was illicit relationship between complainant and wife of accused. The complainant was assaulted by the applicant by using stone and piece of tile.

3. Learned Advocate for the applicant submitted that there are serious discrepancies in the evidence. The offence under Section 307 of IPC is not made out. The medical evidence and the ocular evidence is contradictory. The applicant was on bail during the trial. He has not misused the facility of bail. The applicant is not in position to deposit the fine. He may be permitted to deposit 25% of the fine amount.

4. Learned APP submitted that the the injured had suffered several injuries. There is sufficient evidence to convict the applicant for offence under Section 307 of IPC.

5. The applicant has been sentenced to suffer imprisonment for five years. He was on bail during the trial. There is no adverse report about misusing the facility of bail. The sentence is of short term. Taking into consideration the evidence on record and the submissions of both the sides, sentence of imprisonment can be suspended.

6. Hence, I pass the following order:

ORDER

- i. Interim Application No. 411 of 2022 is allowed;

ii. During the pendency of Criminal Appeal No.98 of 2022, the sentence of imprisonment imposed vide Judgment and order dated 5th January, 2022 passed by learned Additional Sessions Judge, Pune, in Sessions Case No. 560 of 2015 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. The applicant is permitted to furnish cash bail in the sum of Rs.20,000/- for a period of ten weeks in lieu of surety;

iv. The applicant shall deposit the amount of Rs.35,000/- towards the fine amount within eight weeks from the date of release;

v. The applicant shall attend the trial Court once in six months on first Saturday of the month till the final disposal of the appeal;

vi. In the event, there are two consecutive default in attending the trial Court, the said fact may be brought to the notice of this Court and in such eventuality, the prosecution will be at liberty to prefer an application for cancellation of bail;

vii. Interim Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)