

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

**INTERIM APPLICATION NO.820 OF 2022
IN
CRIMINAL APPEAL NO.253 OF 2022**

Navsu Soma Fasale Applicant
Versus
The State of Maharashtra Respondent

Mr. Akshay H. Bankapur, Advocate i/b. Himanshu S. Gavit,
for the Applicant.

Mr. Yogesh Y. Dabke, APP for the Respondent-State.

**CORAM :SARANG V. KOTWAL, J.
DATE : 25th JULY, 2022**

P.C. :

1. This is an application for suspension of sentence and for his release on bail during pendency and final disposal of Criminal Appeal No.253/2022.

2. Heard Shri Akshay Bankapur, learned counsel for the applicant and Shri Yogesh Dabke, learned APP for the State.

3. The applicant was the sole accused in Sessions Case No.531/2019 before Additional Sessions Judge-8,

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Nashik. The applicant faced the charges of commission of the offences punishable under Sections 353 and 333 of the Indian Penal Code. At the conclusion of the trial, he was convicted for the offence punishable under Section 333 of IPC, was sentenced to suffer RI for two years and to pay fine of Rs.2,000/- and in default to suffer RI for two months. No separate conviction was recorded for the offence under Section 353 of IPC.

4. Learned counsel for the applicant submitted that even after conviction, his sentence was suspended till the appeal period was over. He is sentenced only for two years and the appeal is not likely to reach within that period. The offence is old and the applicant is falsely implicated. He, therefore, submitted that bail be granted to the applicant.

5. Learned A.P.P. opposed this application. He submitted that the evidence on record is sufficient to prove guilt of the appellant. The learned Judge has been lenient in awarding the sentence.

6. I have considered these submissions. The

prosecution case is that on 21.8.20123, the applicant took his cattle in the plantation area. The informant was on duty as a Cattle Guard in the Forest Department. He removed the cattle from that area. The applicant got angry and gave a blow with an iron rod on the right leg of the informant causing fracture. The offence was registered vide C.R. No.I-24/2013 at Harsul Police Station, Nashik.

7. The investigation was carried out and the applicant faced the trial. During trial seven witnesses were examined, out of which PW-2 was the first informant who was an injured witness, PW-4 was another security guard who was eye witness and PW-6 Dr. Vilas was the Medical Officer. Their evidence is consistent. Since the appeal is admitted, the evidence will have to be re-examined. The sentences awarded to the applicant is maximum two years. The appeal is not likely to be listed within that period for final hearing.

8. The applicant was on bail during trial and there are no allegations of misusing that liberty. Even after his

conviction, his sentence was suspended under Section 389 of Cr.P.C.

9. Considering all these aspects, this application is allowed with following order :

:: O R D E R ::

- i. During hearing and final disposal of Criminal Appeal No.253/2022, the applicant is directed to be released on bail on his furnishing P.R. bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
- ii. Application is disposed of accordingly.

(SARANG V. KOTWAL, J.)

Deshmane (PS)