

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 852 OF 2022
IN
CRIMINAL APPEAL NO. 259 OF 2022

Jalindar Bharat Kumbhar ...Applicant/Appellant
Versus
The State Of Maharashtra ...Respondent

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Mr. Mateen Shaikh a/w Mr. Nadeem Shaikh a/w Arshad Shaikh a/w
R. Shaikh a/w S. Inamdar, Advocate for the Applicant/Appellant.
Ms. P. N. Dabholkar, APP for the Respondent – State.
Mr. Sanjay Sahare (PSI) Manpada Police Station, Present.

CORAM : PRAKASH D. NAIK, J.
DATE : 28th MARCH, 2022.

PER COURT:

1. This is an application for suspension of sentence and grant of bail during the pendency of Criminal Appeal No.259 of 2022.

2. The applicant was tried as accused No.2 for offences punishable under Sections 353, 332 r/w Section 34 of Indian Penal Code (for short “IPC”). By judgment and order dated 11th February, 2022 passed by learned Additional Sessions Judge, Kalyan the applicant was convicted for offence under Section 353 r/w Section 34 of of IPC and sentenced to suffer rigorous imprisonment for 4 years. He is also convicted for offence under Section 332 r/w

Section 34 of IPC and sentenced to suffer rigorous imprisonment for 4 years. Both the sentences are directed to run concurrently.

3. Learned Advocate for the applicant submitted that the sentence is of short term. The applicant was on bail during the trial. He has not misused the facility of bail. There are serious infirmities in the evidence. There is no evidence of independent witness. Except the policeman, no other witness has supported the prosecution case. The appeal may not come up for hearing within short span of time.

4. Learned APP submitted that the applicant has been convicted for the aforesaid offences. The accused were involved in obstructing the policeman while discharging the duty. Specific role has been attributed to the applicant.

5. It is noted that the applicant was on bail during the trial. There is no adverse report about misuse the facility of bail. The sentence is of short term. The appeal may not come up for hearing immediately. Considering these circumstances, I pass the following order:

ORDER

- i.** Interim Application No. 852 of 2022 is allowed;

- ii.** During the pendency of Criminal Appeal No.259 of 2022, the sentence of imprisonment imposed vide Judgment and order dated 11th February, 2022 passed by learned Additional Sessions Judge, Kalyan in Sessions Case No.168 of 2020 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 eight weeks in lieu of surety.
- iv.** The applicant shall attend the trial Court once in six months on first Saturday of the month till the final disposal of the appeal;
- v.** In the event, there are two consecutive defaults 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.
- vi.** Interim Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)