

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.958 OF 2022
IN
CRIMINAL APPEAL NO.291 OF 2022

Mohd. Shoab Shaukatali Mansuri
versus

Applicant

The State of Maharashtra

Respondent

Mr.Misbaah Solkar, Advocate for applicant.

Mr.Ajay Patil, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 4th May 2022

PC :

1. This is an application for suspension of sentence and grant of bail pending Criminal Appeal No.291 of 2022. The applicant has been convicted for the offence under Section 341 r/w 120B of IPC and sentenced to suffer imprisonment for one month. He is convicted for the offence u/s.394 r/w 397 and 120B of IPC and sentenced to suffer rigorous imprisonment for a period of 10 years and pay fine of Rs.5,000/-. He is further convicted for the offence for the offence u/s.307 r/w Section 120B of IPC and sentenced to suffer imprisonment for a period of 10 years and pay fine of Rs.5,000/-. He is further convicted for the offence u/s.3 r/w 25 of Arms Act and sentenced to suffer imprisonment for a period of 3 years and pay fine of Rs.1,000/- each. He is further convicted for the offence u/s.5 row 27 of Arms Act and sentenced to suffer imprisonment for a period of 3 years and pay fine of Rs.1,000/- each.

2. The prosecution case is that on 5th November 2015 the police received information that while the informant was returning home, two unknown persons came on motorcycle and obstructed the informant and his friend. They took out the key of their scooter. Out of said unknown persons, the pillion rider abused them and pulled the bag from the hands of informant's friend also the pulled golden chain from the informant's neck. The pillion rider from the unknown persons fired from the gun towards towards informant, which hit on the left hand little finger. Thereafter he tried to catch the said pillion rider and give blow by helmet. The motorcycle rider also fired from his gun which hit him to the right side thigh. However, the assailants pointed out gun towards them and threatened them. The registration number of motorcycle was recorded. The FIR was registered vide CR No.400 of 2015 for offences under Sections 307, 397, 392, 341 r/w 34 of Indian Penal Code and Sections 3 r/w 25, 27 of Indian Arms Act.

3. Learned advocate for the applicant submitted that the applicant is in custody for a period of six years. The sentence imposed by the Trial Court is of ten years. The applicant has undergone 50% of the sentence of imprisonment imposed by the Trial Court. The offence u/s.307 of IPC is not made out. It is further submitted that in some of the cases registered against applicant in the past, he has been acquitted and others are pending. The applicant is on bail in all those cases. He has been falsely implicated in those cases. He was shown accused after his arrest in the cases which are registered against unknown persons. The father of the applicant has filed affidavit stating that applicant has been falsely implicated in several cases. In some cases he has been acquitted or

discharged. There is no conviction to his discredit. If the applicant is granted bail, he would stand surety for him and also give undertaking to the Court that he would see to it that applicant would abide by all the conditions. Learned counsel for applicant has relied upon decision of Supreme Court in the case of **Kashmira Singh Vs. State of Punjab (AIR-1977-SC-2147)**.

4. Learned APP submitted that the applicant is habitual offender. He is involved in several cases. Most of the cases were registered under Sections 392 and 379 of IPC. The applicant is habitual offender. Assuming that applicant is acquitted in some cases, several other cases are pending against him.

5. The applicant has been convicted for aforesaid offences. The applicant is in custody for a period of about six years. However, from the list of antecedents as produced before the Court, about 31 cases were registered against applicant. About 7 cases have resulted in acquittal. Most of the cases are of similar nature. The applicant is involved in cases u/s.392 of IPC and under Section 379 of IPC. Present case is of similar nature. Considering this aspect, no case for suspension of sentence is made out.

6. However, considering the fact that applicant is in custody for substantial period of time, the hearing of appeal can be expedited.

ORDER

- (i) Interim Application is rejected;
- (ii) Hearing of appeal is expedited;
- (iii) Preparation of paper book is expedited;

(iv) In the event the appeal is not heard within a period of six months from today, the applicant is granted liberty to prefer fresh application for suspension of sentence and grant of bail;

(v) Interim Application is disposed of.

(PRAKASH D. NAIK, J.)

MST