

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL INTERIM APPLICATION NO. 1251 OF 2022
IN
CRIMINAL APPEAL NO. 402 OF 2022

Amit Hiranman Dhotre ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Aniket Vagal for the Applicant.

Mrs. M.M.Deshmukh, A.P.P for the Respondent-State.

CORAM : REVATI MOHITE DERE &
SHARMILA U. DESHMUKH, JJ.
DATE : 22nd JULY, 2022

P.C. :

1. By this application, the applicant seeks suspension of his sentence and enlargement on bail, pending the hearing and final disposal of his aforesaid appeal.

2. The applicant alongwith other co-accused has been

convicted vide judgment and order dated 13th May, 2021, by the learned Additional Sessions Judge, Pune, in Sessions Case No.523 of 2014, for the offence punishable under Section 302 r/w 34 of the Indian Penal Code and sentenced to suffer life imprisonment and to pay fine of Rs.5,000/- each, in default to undergo further simple imprisonment for three months each. The applicant alongwith other co-accused were however, acquitted of the offences punishable under Section 143, 147, 148, 149 of the Indian Penal Code and Section 37(1), 135 of the Maharashtra Police Act.

3. Perused the papers with the assistance of the learned Counsel for the parties. According to PW-2 Sandip Sakat, his brother was extorted by Bibvewadi Police Station. PW-2 – Sandip has stated that 10 days prior to the incident, his brother Deepak Sakat had come home and that a quarrel had been taken place between Deepak (deceased) and Santosh Sutkar. He has further stated that at the relevant time, Santosh and the applicant had assaulted his brother; however, as Deepak (deceased) was extorted, no complaint was

lodged with the Police. PW-2 Sandip in his evidence has stated that the incident, in question, took place on 9th March, 2014 at about 7.30 p.m. when Deepak had come to the locality. He has stated that Deepak stayed home for sometime and thereafter, left towards Nagzari and that he was stopped by some of the accused, behind the house of one Bapu Kamble. He has stated that he heard his brother Deepak shouting for help, pursuant to which, he went to the spot and saw Bapu Kamble, Deepak Sonawane and Vijay Gund assaulting Deepak with fist and kick blows. He has stated that the applicant assaulted Deepak with a sickle on his ear and that when the said sickle fell from the applicant's hand, co-accused - Santosh Sutkar picked up the said sickle and assaulted his brother Deepak by the same, pursuant to which, his brother fell down. According to PW2-Sandip, thereafter, the applicant picked up a big stone and threw it on Deepak's head, pursuant to which, blood started oozing from his head and ear. Prima facie, the said ocular evidence is corroborated by the medical evidence of PW-7 – Dr. Sachin Amrut Gandhi.

4. Having regard to the evidence on record, this is not a fit case for suspending the applicant's sentence and enlarging him on bail. We, however, expedite the preparation of the paper-book.

5. Matter be listed under the caption 'for direction' on receipt of the paper-book, for fixing date for 'final hearing' of the appeal.

6. The preparation of the paper-book is expedited, having regard to the fact that the applicant is in custody since 2014.

7. The application is rejected and accordingly disposed of on the aforesaid terms.

8. All concerned to act on the authenticated copy of this order.

SHARMILA U. DESHMUKH, J.

REVATI MOHITE DERE, J.