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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL INTERIM APPLICATION NO. 1503 OF 2022
IN
CRIMINAL APPEAL NO. 496 OF 2022

Rajratna @ Rashtrapal Vilas Narvade	...Applicant
Versus	
The State of Maharashtra and Anr.	...Respondents

Mr. Vidyadhar V. Gangurde for the Applicant.

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

Mr. Onkar Warange, appointed Counsel for the Respondent No.2.

CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, JJ.
DATE : 18th JULY, 2022

P.C. :

1. Heard learned Counsel for the parties.
2. By this application, the applicant seeks suspension of his sentence and enlargement on bail, pending the hearing and final

disposal of his appeal.

3. The applicant alongwith other co-accused, vide judgment and order dated 8th April, 2022, passed by the learned District Judge – 2 and Additional Sessions Judge, Nashik, in Sessions Case No.199 of 2016, has been convicted for the offences punishable under Sections 302, 120-B & 504 r/w 34 of the Indian Penal Code and under Section 177 of the Motor Vehicle Act, 1988. For the offence punishable under Section 302, the applicant has been sentenced to suffer life imprisonment.

4. Learned Counsel for the applicant submits that taking the prosecution evidence as it stands, the only role attributed to the applicant is of having assaulted the deceased with fist and kick blows. He submits that the evidence on record shows that it is accused No.1 – Yogesh Jadhav who pulled out a knife from his waist and assaulted the deceased on his throat, chest and stomach, pursuant to which, the deceased succumbed to the injuries. He submits that the applicant was

on bail pending trial and that he has not abused or misused the liberty granted to him.

5. Learned APP as well as the learned Counsel for the the respondent No.2 opposes the application.

6. Perused the papers with the assistance of the learned Counsel for the respective parties. PW-7 – Bhavesh Patil is an eye-witness to the alleged incident of assault dated 11th May, 2015. According to PW-7 – Bhavesh Patil, the incident took place when he had gone to Omkar's store. He has stated that the accused No.1 – Yogesh Jadhav alongwith three others came to the spot; that accused No.1 - Yogesh Jadhav told Anand (deceased) that he could kill him; thereafter, accused No.1 - Yogesh Jadhav slapped Anand (deceased); and that two other persons who came there also started slapping Anand (deceased) on his face. It is further alleged that thereafter, accused No.1 - Yogesh picked up a brick lying on the ground and threw it on Anand, which was dodged by Anand. According to PW-7

– Bhavesh, Yogesh (original accused No.1) pulled out a knife from his waist and assaulted Anand with the said knife on his neck, chest and stomach. Whether or not Section 34 of the Indian Penal Code will apply or whether Yogesh (original accused No.1) will be solely liable for his individual act, will be decided when the matter is finally heard.

7. Having regard to the applicant's role and the fact that he was on bail pending trial and that he has not abused or misused the liberty granted to him, and the evidence on record *qua* the applicant, the application is allowed and the applicant's sentence is suspended and he is enlarged on bail, pending the hearing and final disposal of his appeal, on the following terms and conditions :-

ORDER

- i) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.20,000/- with one or two sureties in the like amount;
- ii) The applicant shall report to the trial Court, once in three months on the day/date specified by the trial Court, till his appeal is

finally disposed of;

iii) The applicant shall keep the trial Court informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time;

iv) If there are two consecutive defaults in appearing before the trial Court, the learned Judge shall make a report to the High Court and the prosecution would be at liberty to file an application seeking cancellation of bail.

8. The application is accordingly disposed of.

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

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.