

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

**INTERIM APPLICATION NO.1436 OF 2022
IN
CRIMINAL APPEAL NO.473 OF 2022**

DEEPAK BHASKAR BHALERAO)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr. Shirish Gupte, Senior Advocate i/by. Ms. Supriya Kak,
Advocate for the Applicant in I.A.No.1436 of 2022.

Mr. A. R Kapadnis, APP for the Respondent - State.

**CORAM : REVATI MOHITE DERE &
V. G. BISHT, JJ.**

DATE : 22nd JUNE 2022

PC. :

1 Heard the 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 aforesaid appeal.

3 The applicant, alongwith other co-accused, vide judgment and order dated 29th January 2022 passed by learned Sessions Judge, Nashik in Sessions Case No.77 of 2013, has been convicted and sentenced as under :

- for the offence punishable under Section 302 r/w. Section 149 of Indian Penal Code, 1860, to suffer imprisonment for life and to pay fine of Rupees 1000/- each, in default to suffer rigorous imprisonment for two months each.
- for the offence punishable under Section 326 r/w. Section 149 of the Indian Penal Code, 1860, to suffer rigorous imprisonment for seven years and to pay fine of Rupees 5000/- each, in default to suffer rigorous imprisonment for six months.
- for offence punishable under Section 143 of Indian Penal Code, 1860, to suffer rigorous imprisonment for six months and to pay fine of Rupees 500/- each and in default to suffer rigorous imprisonment for one month.

- for offence punishable under Section 147 of Indian Penal Code, 1860, to suffer rigorous imprisonment for six months and to pay fine of Rupees 500/- each and in default to suffer rigorous imprisonment for one month.
- for offence punishable under Section 148 of Indian Penal Code, 1860, to suffer rigorous imprisonment for six months and to pay fine of Rupees 500/- each and in default to suffer rigorous imprisonment for one month.
- for offence punishable under Section 37(1) and 135 of the Bombay Police Act, to suffer rigorous imprisonment for six months and to pay fine of Rupees 500/- each and in default to suffer rigorous imprisonment for one month.

4 Perused the papers.

5 It appears that the incident in question had taken place on 7th December 2011, at about 10.00 p.m. In the said incident, it is

alleged that the applicant alongwith co-accused assaulted Rahul Shejwal (deceased), Arvind Bhadange (complainant), Pramod and Pankaj with deadly weapons. The First Information Report (FIR) was lodged on 8th December 2011 as against unknown persons. It appears that the applicant was arrested in connection with the said offence on 8th July 2012 and Test Identification Parade was held on 24th July 2012. Out of the six witnesses who were sent for identification, only one witness i.e. PW1-Arvind Bhadange has identified the applicant in the said Test Identification Parade that was held on 24th July 2012 i.e. after seven months of the incident. According to the eye witnesses / injured, the accused including the applicant were known to them. The statement of PW13-Pramod was recorded on 11th December 2011. It appears that PW13-Pramod was present with PW1-Arvind (complainant) when the FIR was lodged, however, PW1-Arvind has not named the applicant or any other accused in the said case. It appears that only in the supplementary statement which was recorded on 11th December 2011, that PW1-Arvind named the applicant and other co-accused for the first time.

6 The motive for the alleged assault is not clear from the evidence that has come on record. There are several discrepancies in the evidence of the eye witnesses/injured. The applicant was on bail pending trial and there is nothing to indicate that the applicant has misused or abused his liberty whilst on bail. The appeal has been admitted vide order dated 14th June 2022 and the same is likely to take some time, before it is heard.

7 Considering the aforesaid, the application is allowed and the sentence of the applicant 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.25,000/- 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 allowed in the aforesaid terms and is accordingly disposed of.

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

(V. G. BISHT, J.)

(REVATI MOHITE DERE, J.)

ARTI
VILAS
KHATATE

Digitally signed by
ARTI VILAS
KHATATE
Date: 2022.06.29
14:37:40 +0530