

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

***CRIMINAL INTERIM APPLICATION NO.1543 OF 2021
IN
CRIMINAL APPEAL NO.818 OF 2019***

Manigandan @Mani Tangraj Harijan ...Applicant/Orig. Accused
Versus
The State of Maharashtra ...Respondent/Orig. Complainant

Mr. Murtaza M. Khokhawala a/w Ms. Megha Puralkar, for the Applicant.

Ms. P. P. Shinde, A.P.P for the Respondent – State.

CORAM : REVATI MOHITE DERE, J.

DATE : 28th MARCH 2022

P.C. :

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

2. Learned Counsel for the applicant submits that the applicant has been convicted for the offence punishable under Sections 397 and 506 (II) of the Indian Penal Code and has been sentenced to suffer rigorous imprisonment for 10 years. He submits that the applicant is in custody

since 7th March 2016 and that the applicant has undergone more than 50% of the sentence imposed by the trial Court. He further submits that the appeal is not likely to come up for the hearing in the immediate near future.

3. Learned Counsel for the applicant has filed an affidavit of the applicant, wherein the applicant has undertaken to abide by all the conditions that may be imposed upon him by this Court whilst enlarging him on bail. The applicant has also stated that he will not commit any other offence, if released on bail. The said affidavit is duly affirmed before the Circle Jailor, Kolhapur Central Prison, Kolhapur.

4. Learned APP states that the applicant has several antecedents i.e. similar cases registered as against him from the year 2006 to 2016.

5. Perused the papers. According to the prosecution, the incident took place on 23rd November 2015 at about 4:00 p.m. near Dharavi Bus Depo. It is alleged by the complainant i.e. PW 1, who is a rickshaw driver, that the applicant and another co-accused told him that they wanted to go to Santacruz (West), pursuant to which he took them to Santacruz (West).

He has stated that the said persons were consuming beer and that the applicant asked the said witness to stop the rickshaw in front of Pankaj Medical on B.R. Road. He has stated that when he asked them for fare of Rs.118/-, the applicant abused him and held his collar and brought him out of the rickshaw; that the other co-accused smashed a beer bottle and threatened him by showing the same to him; that the applicant took out a knife from his waist and put it on the complainant's neck, pursuant to which, there was a scuffle. The complainant has further stated that after he fled from the spot, the applicant and the other co-accused followed him and held him and that the applicant pulled out Rs.1,200/- from his pocket and assaulted him on his left arm by means of a knife, as a result of which, he sustained a bleeding injury. Thereafter, the complainant (PW1 – Ashok Yadav) lodged a complaint/FIR as against the applicant and another co-accused. The injury sustained by PW 1 - Ashok Yadav is a CLW on the left arm. There is medical evidence to that effect. No doubt, the applicant has antecedents, however, the applicant is in custody since March 2016 i.e. for almost six years. Considering the antecedents, stringent conditions can be imposed on the applicant. The appeal is not likely to come up for the hearing in the immediate near future. The applicant has undergone more

than 50% of the sentence awarded to him. The applicant has also filed an affidavit duly affirmed before the Circle Jailor, Kolhapur Central Prison, Kolhapur stating therein, that he will abide by all the conditions that may be imposed upon him by this Court whilst enlarging him on bail and that he will not commit any other offence, if released on bail.

6. Considering the aforesaid, the application is allowed and the applicant's sentence is suspended and he is enlarged on bail, pending the hearing and final disposal of the aforesaid Criminal 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 more local sureties in the like amount;
- ii) The Applicant shall attend the concerned Police Station on the first and third Saturday of every month between 10:00 a.m. to 11:00 a.m. till his Appeal is finally disposed of. The police to give an endorsement of attendance on the book, which will be maintained by the Applicant;
- iii) The Applicant shall report to the trial Court, once in a month i.e. on the first Saturday, till his Appeal is finally disposed of;

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

v) The Applicant shall file an undertaking with regard to clauses (ii) to (iv) in the trial Court, within two weeks of his release;

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

7. The Application is allowed in the aforesaid terms and is accordingly disposed of.

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

REVATI MOHITE DERE, J.