

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****INTERIM APPLICATION NO. 1723 OF 2022****IN****CRIMINAL APPEAL NO. 1026 OF 2021**

Ajit Eknath Bhagat

... Applicant/Appellant

V/s.

The State of Maharashtra

... Respondent

Mr.S.R. Borolkar i/b. Mr. Sainand Chaugule for Applicant/Appellant.

Ms.Sharmila Kaushik, A.P.P. for Respondent-State.

CORAM : A.S. GADKARI, J.**DATE : 4th July 2022.****PC. :**

1. This is an application for suspension of sentence and releasing the Applicant on bail.

2. Applicant is convicted for an offence punishable under Section 307 of The Indian Penal Code (for short, 'I.P.C.') and under Section 3 read with 25 of The Arms Act and is sentenced to suffer maximum rigorous imprisonment for five years and to pay a total fine of Rs.6,000/- by the learned Additional Sessions Judge, Thane by its Judgment and Order dated 22nd November 2021.

3. Mr.Borolkar, learned counsel for Applicant submitted that, the prosecution has examined in all five eye witnesses, out of which four have

been disbelieved by the Trial Court and only one independent witness has been held to be reliable and trustworthy. He submitted that, there are material discrepancies in the testimonies of witnesses cited by the prosecution. He further submitted that, the Applicant was released on temporary bail on the ground of Covid-19 pandemic for about an year and there is no report of breach of any of the conditions imposed upon him. The Applicant has now surrendered to jail custody on 1st June 2022. He further submitted that, the Applicant as of today has undergone imprisonment of about 2 years and 2 months, out of 5 years of total sentence imposed upon him. He therefore prayed that, the Applicant may be released on bail.

4. Perusal of record *prima-facie* indicates that, there is substance in the submissions advanced by the learned Advocate for the Applicant. That the Applicant was released on temporary bail on the ground of Covid-19 pandemic for about a year and there is no report of breach of any of the conditions imposed upon him. It further appears from record that, after temporary bail period came to an end, the Applicant surrendered himself to the jail authority on 1st June 2022. Even otherwise the sentence imposed upon the Applicant is five years of rigorous imprisonment, out of which he has already undergone 2 years and 2 months of imprisonment. Possibility of hearing present Appeal on its own merits in near future is remote.

5. In view of the above, during the pendency of the present Appeal, the substantive sentence imposed upon the Applicant can be suspended and he can be released on bail.

6. Hence, the following Order :-

- (i) Applicant/Accused be released on bail in Sessions Case No. 264 of 2019 on his furnishing PR. bond of Rs.25,000/- with one or two separate local sureties in the like amount.
- (ii) Applicant is permitted to furnish cash bail for a period of 12 weeks and during the said period he is directed to comply with the condition of furnishing sureties as per clause (i) herein-above.
- (iii) After his release from jail and till final disposal of present appeal, Applicant is directed to attend Mumbra Police Station on every first Monday of the month initially for a period of 1 year and thereafter on every first Monday of every 3rd month, i.e. 4 times in a year.

7. Application is allowed in the aforesaid terms.

[A.S. GADKARI, J.]