

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

**INTERIM APPLICATION NO. 3537 OF 2022
IN
CRIMINAL APPEAL NO. 1034 OF 2022**

1. Ratan @ Ratilal Prabhu Bhosale
2. Sunil Chandrakant Kamble ..Applicants
Versus
The State of Maharashtra & Anr. ..Respondents

Mr. Priyal G. Sarda, for Appellants.
Mr. P. H. Gaikwad, APP for State/Respondent No.1.

CORAM : SARANG V. KOTWAL, J.
DATE : 19th OCTOBER 2022

PC :

1. This is an application for bail pending the hearing and final disposal of Criminal Appeal No.1034 of 2022 preferred by the applicants. The applicants are convicted and sentenced by learned Additional Sessions Judge, Solapur vide his Judgment and order dated 07/10/2022 passed in Sessions Case No.236 of 2017. Both of them were convicted for commission of offence punishable U/s.307 r/w. 34 of I.P.C. and were sentenced to suffer R.I. for 5 years each and to pay a fine of Rs.1000/- each and in default of payment of fine to suffer imprisonment for one month each.

2. The prosecution case is that the first informant-PW-1 Anil Kamble and both these applicants were working in transport department of the Solapur Municipal Corporation. On 23/10/2016, the applicants were teasing the PW-1 and during their playful interaction with each other they made him lie down on the ground. His clothes became dirty. The applicant Sunil Kamble picked up a pipe of compressed air and started blowing compressed air on his clothes to clean them. At that time, the applicant Ratan Bhosale asked Sunil to put that air in PW-1's anus. The applicant Sunil did that and the compressed air went inside the body of the PW-1. He felt uneasy. He was taken to hospital. He was treated in the hospital till 04/11/2016. After that he lodged his F.I.R. on 06/11/2016. The investigation was carried out. Both the applicants faced the trial and were convicted and sentenced, as mentioned earlier.

3. Shri. Sarda, learned counsel for the applicants submitted that, there was neither any intention nor motive to commit this offence which are the main ingredients of Section 307 of I.P.C. The incident had happened while they were teasing each other.

Though, it was a mindless act on the part of the applicants, they certainly did not have any intention to cause any grievous hurt to the informant. He submitted that, at the highest, Section 338 of I.P.C. can be applied. He further submitted that, there is delay in lodging F.I.R. and there are witnesses who have deposed and described the incident in different manner.

4. Learned APP opposed this application. He submitted that the first informant had been operated and, therefore, it shows that the incident was serious.

5. I have considered these submissions. I have also perused the evidence of Medical officer – PW-9 who had treated the PW-1. He has deposed that, PW-1 was admitted on 23/10/2016. PW-9 had then repaired the intestine and exploratory laparotomy was done. The injury was dangerous to the life of the patient.

6. Thus, there is no doubt that the incident had taken place. Therefore, delay in lodging the F.I.R. would not matter. However, there is some substance in the submission of Shri. Sarda that, there was no intention to cause this injury to the victim. It

was a rash and negligent act. But, whether there was any other intention, will have to be decided at the final hearing stage. Considering these aspects, the applicants have made out a case for their release on anticipatory bail. Therefore, I am inclined to grant bail to the applicants. Shri. Sarda invited my attention to a copy of the wedding card annexed to this application which shows that the applicant No.1's son is to get married tomorrow i.e. on 20/10/2022. Therefore, it is necessary that the applicant No.1 is able to attend the marriage. Considering this urgency, for the time being, the applicant No.1 can be permitted to furnish cash bail.

7. Hence, the order:

ORDER

- i) During pendency and final disposal of Criminal Appeal No.1034 of 2022, both the applicants are directed to be released on executing their P. R. Bonds in the sum of Rs.30000/- each with one or two sureties each in the like amount.
- ii) The Applicant No.1 Ratan @ Ratilal Prabhu

Bhosale is permitted to furnish cash bail of Rs.30000/- for a period of two weeks from today. Within that period, he will have to furnish sureties as directed.

iii) It is made clear that, this facility is granted only to the applicant No.1 Ratan @ Ratilal Prabhu Bhosale, because of the wedding of his son on 20/10/2022.

iv) The Application is disposed of accordingly.

(SARANG V. KOTWAL, J.)