

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****INTERIM APPLICATION NO. 1571 OF 2019****IN****CRIMINAL APPEAL NO. 1683 OF 2019**

Ismile Hanif Rais

... Applicant

V/s.

The State of Maharashtra And Anr.

... Respondents

Mr. Raju D. Suryawanshi for the Applicant.

Mr. R. M. Pethe, APP for Respondent No.1-State.

CORAM : A.S. GADKARI, J.**DATE : 9th June 2022.****PC. :**

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

2. Applicant has been convicted under Section 307 of the Indian Penal Code (for short, "IPC") and is sentenced to suffer rigorous imprisonment for five years and to pay fine of Rs.50,000/-, in default of payment of fine, to suffer rigorous imprisonment for one year, by the learned Additional Sessions Judge, Kalyan in Sessions Case No.9 of 2004, by its Judgment and Order dated 28th November 2019.

3. Mr. Suryawanshi, learned Advocate for the Applicant submitted that, the Applicant was on bail during the trial and was taken into custody

after pronouncement of Judgment and Order, on 28th November 2019. He submitted that, Applicant has already deposited entire fine amount in the Registry of the Trial Court. He further submitted that, the Applicant was released on COVID-19 bail on 17th May 2020 and on his own surrendered to Jail custody on 24th May 2022. He further submitted that, there is no report of breach of any of the bail conditions imposed upon him during the period when he was on bail.

4. Perusal of record prima-facie indicates that, alleged incident in question occurred at the spur of moment when the informant challenged the Applicant after the Applicant demanded his lawful dues from him. It further prima facie appears that, in the fit of rage the applicant took a knife which was laying in the shop of the informant and assaulted the informant.

5. Applicant is a senior citizen aged about 71 years. The learned APP on instructions submitted that, there is no report of breach of any of the bail conditions which were imposed upon the Applicant during the pendency of the trial. That, there are no antecedents at the discredit of the Applicant.

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

7. Hence, the following Order :-

- (i) Applicant be released on bail in Sessions Case No.9 of 2004, arising out of C.R. No. 81 of 2003 registered with Bazarpeth Police Station, Tal. Kalyan, Dist. Thane, on his furnishing P.R. bond of Rs.25,000/- with one or two local sureties in the like amount.
- (ii) During the pendency of the Appeal, Applicant is directed to attend Bazarpeth Police Station, Tal. Kalyan, Dist. Thane, 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.

8. Application is allowed in the aforesaid terms.

[A.S. GADKARI, J.]