

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

**INTERIM APPLICATION NO. 305 OF 2023
IN
CRIMINAL APPEAL NO. 67 OF 2023**

Manoj Mukinda Ahiwale	..Applicant
Versus	
The State of Maharashtra	..Respondent

Smt. Manisha Devkar for Appellant.
Mr. S. R. Agarkar, APP for State/Respondent.

**CORAM : SARANG V. KOTWAL, J.
DATE : 24 JANUARY 2023**

PC :

1. This is an application for bail pending final disposal of Criminal Appeal No.67 of 2023 preferred by the applicant. The prosecution case is that, on 31/10/2009, the applicant burst the fire crackers in the Court. They were described in Marathi as '*sutali bomb*'. He also distributed some pamphlets. He was shouting some slogans. He was caught on the spot.

2. Learned counsel for the Appellant submitted that the incident is old which had taken place in the year 2009. The sentence is short and the Appeal is not likely to be decided within

one year. There are no independent witnesses. All the witnesses are the court employees. She submitted that, even if it is assumed that he had burst the fire crackers, his state of mind may be taken into consideration. She submitted that the Charge was not framed U/s.286 of the I.P.C. and yet he was convicted under that section. The ingredients of Section 353 of the I.P.C. are not made out.

3. Learned APP opposed this application. He submitted that the offence is serious and his conduct should not be condoned.

4. I have considered these submissions. The applicant was convicted by learned Additional Sessions Judge, Satara vide his Judgment and order dated 30/11/2022 in Sessions Case No.259 of 2019. The applicant was convicted for commission of offence punishable U/s.353 of the I.P.C. and was sentenced to suffer R.I. for one year and to pay a fine of Rs.1000/- and in default of payment of fine to suffer S.I. for one month. He was convicted for offence punishable U/s.286 of the I.P.C. and was sentenced to suffer R.I. for six months and to pay a fine of Rs.1000/- and in default of payment of fine to suffer S.I. for one month. He was

acquitted from the charges of offence U/s.336 of the I.P.C. and under section 3 of the Explosive Substance Act, 1908.

5. I have considered the submissions of both learned counsel. I have also perused the copies of the depositions annexed to this application. The applicant was acquitted from the charges of Section 3 of the Explosive Substance Act, 1908, because, according to learned Judge, the permission of the competent authority to prosecute him under that Act was not properly proved. He has observed that, though, charge was not framed U/s.286 of the I.P.C., it is a minor offence compared to Section 336 of the I.P.C. This proposition is debatable. It will have to be decided whether the offence U/s.353 of the I.P.C. is made out. Having said that, the offence is not minor, but the State has not taken any steps. It is for the State to take appropriate steps in connection with these allegations. The offence is old. Since 2009, there are no allegations that the applicant has committed any further offence or caused any disturbance. The applicant was on bail during trial. He has not misused that liberty. Even after his conviction he was granted bail under the provision of Section 389 of the Cr.p.c. The

Appeal is not likely to be decided with a period of one year; which is the major punishment imposed on him. Considering these aspects, the applicant can be granted bail pending his Appeal; with certain conditions.

6. Hence, the following order:

O R D E R

- i) During pendency and final disposal of Criminal Appeal No.67 of 2023, the Applicant is directed to be released on bail on his furnishing P. R. bond in the sum of Rs.30000/- with one or two sureties in the like amount.
- ii) The Applicant shall report to the concerned police station once in a month for a period of six months from today.
- iii) The Application is disposed of.

(SARANG V. KOTWAL, J.)