

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

**INTERIM APPLICATION NO.383 OF 2023
IN
CRIMINAL APPEAL NO.96 OF 2023**

Sandip Rambhau Binnar Applicant

versus

State of Maharashtra Respondent

.....

- Ms. Rashmi More i/b. Ergo Juris, Advocate for Applicant.
- Smt. M. R. Tidke, APP for the State/Respondent.

**CORAM : SARANG V. KOTWAL, J.
DATE : 01st FEBRUARY, 2023**

P.C. :

1. This is an application for bail pending final disposal of the Appeal preferred by the Applicant. The Applicant was convicted and sentenced by the Additional Sessions Judge, Nashik, vide his Judgment and Order dated 09/01/2023 passed in Sessions Case No.143/2020.

2. The Applicant was convicted for commission of offence punishable u/s 332 r/w 379 of the Indian Penal Code. The major

sentence imposed on him was for two years for offence punishable u/s 379 of the Indian Penal Code and rigorous imprisonment for one year for the offence punishable u/s 332 of the Indian Penal Code. He was also imposed fine for both these offence separately. He was acquitted for the offence punishable u/s 21(1) of Mines and Minerals (Development and Regulation) Act, 1957.

3. Heard Ms. Rashmi More, learned counsel for the Applicant and Smt. M. R. Tidke, learned APP for the State.
4. The prosecution case is that on 16/06/2016 at 07.45 p.m. the truck driven by the Applicant was intercepted by the informant Talathi and his team. The Applicant was directed to take the truck to Talathi's office. The Applicant pushed the Talathi, kicked him and drove his truck towards Sinnar. On this basis, the FIR is lodged. The investigation was carried out and the Applicant faced the trial.

5. Learned counsel for the Applicant submitted that the incident is not true. The false FIR is lodged against the Applicant. He submitted that the Applicant is acquitted from the charges of offence punishable u/s 21(1) of Mines and Minerals (Development and Regulation) Act, 1957. Even offence u/s 379 of the Indian Penal Code is not made out because it is not the prosecution case that he was driving a stolen truck. Section 379 of the IPC was applied on a specious ground that the truck was in possession of the Talathi and then it was taken away forcibly by the Applicant. In such case section 379 of IPC could not be attracted. She further submitted that the Applicant was on bail during trial and he has not misused the same.
6. Learned APP opposed this application. She submitted that the conduct of the Applicant shows that he does not have any regard for law and therefore bail should not be granted to him.
7. I have considered these submissions. The issues raised by both the sides will have to be considered at the final hearing

stage. The incident is old. It had taken place on 16/06/2016. The Applicant was on bail during trial. There are no allegations of misuse of that liberty. There are no antecedents shown against him for the period from 2016 till today. The sentence is short. The Appeal is not likely to be decided within that short period. Therefore the Applicant deserves to be released on bail.

8. Hence, the following order :

ORDER

- (i) During pendency and final disposal of the Criminal Appeal No.96 of 2023, the Applicant is directed to be released on bail on his furnishing P.R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand only), with one or two sureties in the like amount.
- (ii) Interim Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)