

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

**INTERIM APPLICATION NO. 403 OF 2023
IN
CRIMINAL APPEAL NO. 101 OF 2023**

Nitin Bhima Patel @ Pado ..Applicant
Versus
The State of Maharashtra & Anr. ..Respondents

Mr. N. M. Nadar for Applicant.
Smt. M. R. Tidke, APP for State/Respondent No.1.
Mr. Aayush Kedia i/b. H. S. Venegavkar for Respondent No.2.

**CORAM : SARANG V. KOTWAL, J.
DATE : 2 FEBRUARY 2023**

PC :

1. This is an application for bail pending final disposal of the Appeal preferred by the Applicant. The applicant was convicted and sentenced by learned Sessions Judge, Daman vide his Judgment and order dated 16/01/2023 passed in Sessions Case No.14 of 2020. The Applicant was convicted for commission of offence punishable U/s.186 of the I.P.C. and was sentenced to undergo R.I. for three months and to pay a fine of Rs.300/- and in default of payment of fine to undergo R.I. for 15 days. He was further convicted for commission of offence punishable U/s.353 of

the I.P.C. and was sentenced to undergo R.I. for two years and to pay a fine of Rs.2000/- and in default of payment of fine, to undergo R.I. for 2 months. He was also convicted for commission of offence punishable U/s.307 of the I.P.C. and was sentenced to undergo R.I. for four years and to pay a fine of Rs.4000/- and in default of payment of fine to undergo R.I. for six months.

2. The prosecution case is that, on 28/02/2018, at about 1.50a.m. the police officers i.e. A.S.I. Pravin Mahyavanshi and the Head Constable Nimesh Ahir were on patrolling duty at Moti Daman. At about 1.50a.m. the applicant came in his car from Nani Daman. The informant A.S.I. Pravin Mahyavanshi signaled him to stop. He did not stop immediately but stopped after crossing the informant. He got down from his car and gave abuses to the informant. Thereafter the appellant went ahead in his car and came back after taking U turn and speedily drove the car towards the patrolling party. It is alleged that, he dashed into the informant because of which he fell on the ground. On these allegations the F.I.R. was lodged and the investigation was carried out.

3. Learned counsel for the Appellant submitted that the appellant was on bail during trial. He has not misused that liberty. He submitted that the incident is not true and the police have implicated him falsely because of grudge. There is nothing to fix the identity of the offender. It was night time. There is nothing to show that there was sufficient light. He further submitted that the police officer has no reason to involve the applicant. According to him, the injuries suffered by the first informant were not possible if a car dashed into him in a speed.

4. Learned Special P. P. opposed these submissions. He submitted that, according to the instructions, the applicant has other antecedents. The incident is captured in CCTV footage which was produced on record. The certificate U/s.65B of the Indian Evidence Act was also produced. The incident clearly shows that a car came back in a speed towards the patrolling party and, therefore, the offence is made out.

5. I have considered these submissions. Since the incident is captured in the CCTV footage, there is some substance in the

prosecution case. However, the medical evidence in the form of evidence of PW-1 Dr. Thakur shows that the first informant had suffered small abrasion on the knee of the size 2cm x 1cm. This is absolutely a minor injury and it is difficult to believe that this injury could be caused by a speeding vehicle's impact on the first informant. All these issues will have to be considered at the final hearing stage of the appeal. The sentence imposed is short. The Appeal is not likely to be decided within that period. Therefore, though I am inclined to grant bail to the applicant pending his Appeal, I am also inclined to impose certain conditions on him considering the nature of offence.

6. Hence, the following order:

ORDER

- i) During pendency and final disposal of Criminal Appeal No.101 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 fortnight for a period of one year from today.

iii) The Application is disposed of.

(SARANG V. KOTWAL, J.)