

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO.1478 OF 2023
IN
CRIMINAL APPEAL NO.465 OF 2023

Vikas Dashrath Jadhav .. Applicant
Versus
The State of Maharashtra .. Respondent

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Mr.Vaibhav R. Gargade for the Applicant.
Mr.Y.M.Nakhawa, A.P.P. for the State.

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CORAM: BHARATI DANGRE, J.
DATED : 21st APRIL, 2023

P.C:-

1. Heard the learned counsel for the Applicant and the learned A.P.P. for the State.

The Applicant seek suspension of sentence and pray for his release on bail, on being convicted in Sessions Case No.73 of 2018, for committing an offence under Section 307 read with Section 34 of IPC. He has been sentenced to suffer R.I. for seven years and to pay fine of Rs.5,000/-, in default to suffer S.I. for one year. Alongwith him, Accused No.1-Aakash @ Lailypapya Shivaji Jadhav also stand convicted for the offence under Section 307 read with Section 34 of IPC.

2. The prosecution case is surfaced on record through the injured PW 4-Tejas, who has deposed before the Court about the incident, which took place on 02/09/2007, where it is alleged that when he was present at Samaj Mandir at about 8.30 to 8.45 p.m., the present Applicant alongwith Aakash @ Lailypapya reached there and he was made to consume liquor. Thereafter, he was taken on a ride for Ganpati darshan and when they reached at Kalubai Nagar on the motorcycle of Vikas i.e. the present Applicant, Anita Jadhav and Santosh Saste were called upon the spot. The prosecution then alleges that Anita slapped him and Santosh hit him with his elbow on his back. Accused No.1-Aakash is alleged to have assaulted on his back by knife and when he turned down, the present Applicant gave blow of knife on his hand. Thereafter, once again Accused No.1 assaulted him by knife below his stomach. The assault caused six injuries, which are indicated in the Injury Certificate issued by PW 5-Dr.Prashant Desai. The four amongst the five injuries are found on the stomach area, being caused by sharp penetrative instrument, all being grievous in nature. The fifth injury is cut incised wound over left arm upper 1/3rd of size 3 cm x 1 cm muscle deep. This is also alleged to have been caused by sharp penetrative instrument and it is also classified as grievous injury. The Applicant is obviously the author of injury No.5. PW 5 specifically deposed that he issued the Injury Certificate, after examining the injured and opined that all the grievous injuries could have caused loss of his life and the injuries could have been caused by any other weapon.

The learned counsel for the Applicant would submit that there is recovery of only one knife and the injury which is attributed to the Applicant is on the arm and he would submit that the intention is not to cause the death of the injured. In any case, the evidence will be appreciated, when the Appeal is being heard, but at present, since PW 4, the injured himself has attributed this limited role to the present Applicant, he deserve suspension of sentence and his liberty, pending the adjudication of the Appeal. Hence, the following order.

: **ORDER** :

1. Application is allowed.
2. The sentence imposed on the Applicant vide judgment dated 23/01/2023 in Sessions Case No.73 of 2018 is suspended.
3. Pending the Appeal, the Applicant be released on bail on furnishing PR Bond to the extent of Rs.25,000/- with one or more sureties in the like amount.

(SMT. BHARATI DANGRE, J.)