

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

**INTERIM APPLICATION NO.2537 OF 2022
IN
CRIMINAL APPEAL NO.753 OF 2022**

Pintu @ Pradip Parashram Tasambad Applicant
versus
State of Maharashtra Respondent

**INTERIM APPLICATION NO.2619 OF 2022
IN
INTERIM APPLICATION NO.2537 OF 2022
IN
CRIMINAL APPEAL NO.753 OF 2022**

Suresh Ratanlal Dalod Intervenor

IN THE MATTER BETWEEN :

Pintu @ Pradip Parashram Tasambad Applicant
versus
State of Maharashtra Respondent

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- Mr. Aniket Ujjwal Nikam a/w Aashish Satpute a/w Piyush Toshniwal a/w Amit Icham, Advocate for Applicant.
- Smt. M. R. Tidke, APP for the State/Respondent.
- Mr. Ganesh Gole a/w Ateet Shirodkar i/b. Bhavin Jain, for Intervenor in IA/2619/2022.

MANUSHREE V. NESARIKAR
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Date: 2023.02.17 16:58:10 +0530

CORAM : SARANG V. KOTWAL, J.
DATE : 16th FEBRUARY, 2023

P.C. :

1. This is an application for bail pending final disposal of the Applicant's Appeal No.753/2022. The Applicant was the original accused No.2 in Sessions Case No.133/2019 before the Additional Sessions Judge, Nashik. At the conclusion of the trial, the Applicant and the other two co-accused were convicted for commission of offence punishable u/s 307 r/w 34 of the IPC. The Applicant was arrested on 18/11/2018 and since then he is in custody. The Applicant was sentenced to suffer rigorous imprisonment for 10 years and to pay a fine of Rs.10,000/- and in default of payment of fine to suffer simple imprisonment for six months.
2. The prosecution case is that, on 17/11/2018, because of previous enmity, all the accused including the present Applicant, assaulted the injured Suresh Dalod and his son Siddharth Dalod. Initially the accused assaulted Suresh, who is examined as PW.3. He has deposed that the accused No.1 Vikram @ Pappu Tasambad had assaulted him with the chopper. Accused No.2 Pintu @ Pradip Tasambad i.e. the present Applicant assaulted

him with a wooden stick. Then accused No.3 Sandesh Salve assaulted him with a fighter. His son Siddharth and his nephew Saurabh Bagadi tried to save him. Siddharth had lodged FIR in this case. He was examined as P.W.1. According to the prosecution case, the accused No.1 gave blow of knife on the back of P.W.1 Siddharth. There are allegations that the Applicant had given blow with stick on the forehead of Siddharth. On this basis, the FIR is lodged. The investigation was carried out.

3. Heard Mr. Aniket Nikam, learned counsel for the Applicant, Mr. Ganesh Gole, learned counsel for the Intervenor and Smt. M. R. Tidke, learned APP for the State.
4. Learned counsel for Applicant submitted that the role attributed to the present Applicant is minor and is distinguishable from that of the main accused i.e. accused No.1. The Applicant has not caused any grievous injury either to Suresh or to Siddharth. There is only one injury on the forehead of Siddharth. It is of the size 1 x 1 cm, which is not shown to be a grievous injury.

5. He submitted that the remaining period is short and the Appeal is not likely to be decided within that period. In the background of the minor allegations against the Applicant, he deserves to be released on bail pending his Appeal.
6. Learned counsel Mr. Gole appearing for the Intervenor i.e. one of the victims, Suresh, submitted that the Intervenor has received a letter from an inmate of the accused through jail, wherein it was mentioned that there was danger to the life of Suresh and his family. He submitted that even after his conviction, the accused No.1 assaulted the intervenor in the Court premises itself, which shows the dangerous nature of the accused and therefore on this count, bail should not be granted to the Applicant. He therefore submitted that even on merits, all the accused are convicted with the aid of section 34 of IPC which means that they were sharing common intention. Therefore, on merits, the Applicant does not deserve bail.
7. Learned APP supported the contention of learned counsel Mr. Gole.

8. I have considered these submissions. As discussed above and it is also clear from the evidence that the Applicant's role is distinguishable from that of the main accused i.e. the accused No.1 Vikram. There is only one minor injury attributed to the present accused, which was caused to Siddharth. The Applicant is in custody for more than four years, out of total sentence of 10 years. Though there is apprehension expressed by learned counsel Mr. Gole, such apprehension can be taken care of by imposing certain conditions. The police officers are duty bound to take care of Suresh and others if the apprehension is real. In view of this discussion, the Applicant can be granted bail pending his Appeal.

9. Hence, the following order :

ORDER

- (i) During pendency and final disposal of the Criminal Appeal No.753 of 2022, 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) The Applicant shall not enter the Nasik District till the Appeal is decided.
- (iii) The Applicant shall report to the nearest police station once a month where he will be residing after his release on bail.
- (iv) The Applicant shall inform the Investigating Officer about his future residential address.
- (v) Interim Application No.2537 of 2022 stands disposed of accordingly.
- (vi) With disposal of this application, nothing survives in the Intervention Application. In any case, I have heard Learned Counsel for the Intervenor. Therefore, the Intervention Application i.e. Interim Application No.2619 of 2022, is also disposed of.

(SARANG V. KOTWAL, J.)