

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.1028 OF 2023
WITH
INTERIM APPLICATION NO. 3377 OF 2023
IN
CRIMINAL APPEAL NO. 1028 OF 2023**

Ravikant Motiram Patil

.. Appellant

Versus

State of Maharashtra

.. Respondent

Mr. Shantanu Phanse i/b Mr. Niles Navale, for the
appellant/applicant.
Mr. S.R. Agarkar, APP for the State.

**CORAM: BHARATI DANGRE, J.
DATED : 27th SEPTEMBER, 2023**

P.C:-

- 1 Appeal admit.
- 2 Learned APP waive notice for State.
- 3 Call for Record and Proceedings.

Interim Application No.3377 of 2023

4 On the appeal being admitted, the application filed by the appellant seeking suspension of sentence imposed in Sessions Case No. 127 of 2013 and for his release on bail is taken up for hearing.

5 Heard Mr. Shantanu Phanse for the applicant and learned APP, Mr. Agarkar, for the State.

I have perused the impugned judgment and the copies of the depositions placed on record.

In Sessions Case No. 127 of 2013, total 13 accused faced the charge under Sections 307, 143, 147, 148, 336, 337, 338, 504, 323, 506 r/w 149 of IPC. The impugned judgment has acquitted accused nos. 2 to 13 of the offences punishable under Section 307, 323, r/w 149 of IPC. The applicant, i.e. accused no.1 is convicted for committing an offence punishable under Section 307 and he is sentenced to suffer RI for three years and to pay fine of Rs. 5000/-, in default to undergo SI for six months. He also stand convicted for committing an offence under Section 323 and on that count he is sentenced to suffer RI for three months, with a default sentenced also being imposed.

6 Mr. Phanse have invited my attention to the evidence of the three injured witnesses PW-1, PW-3 and PW-4.

PW-1, Rajesh in the examination in chief has categorically deposed that he saw Ravikant Patil taking out the chopper from his vehicle by which he mounted an assault on him, whereas other people present there assaulted by means of wooden stick and iron rod as well as they pelted stones. He has deposed that even Nilesh sustained injuries.

However, in the cross-examination, he admit that he did not actually witnessed Ravikant opening his car and his version in the cross-examination is stones were pelted from the two groups against each other and he sustained injuries by the stone, along with Nilesh and was not aware as to who had hit him. In cross-examination, he admit that the applicant arrived at the spot to pacify the quarrel and to establish a dialogue between the two groups, which had indulged into a fight two days back.

His injury Certificate reflect that he has sustained grievous injuries with an history being given of assault by Chopper (sharp weapon).

PW-3 another injured Nilesh Chandrakant Bhoir also testified that Ravikant had mounted assault on Ananta Bhoir by Chopper and he even assaulted him on his back, head and shoulders and when Rajesh Bhoir came for rescue, he was also assaulted by Ravikant. In the cross-examination his version is similar to PW-1, where he deposed that Ravikant had come there to resolve the dispute and stones were pelted and he is not aware, as to who pelted the stones. He deny the suggestion that he is making the false statement that Ravikant had assaulted him as well as Rajesh.

Similar is the position as regards the testimony of PW-4 Nilesh Ananta Bhoir, when he contradict his statement given to the police.

The testimony of these witnesses require a deeper scrutiny. The PW-10 another eye witness, has attributed a specific role to the present applicant and though he says that he also sustained the minor injury, when in the witness box, he has assigned a specific role to the present applicant, of assaulting by means of a chopper.

7 The discrepancy in the version of the prosecution witnesses according to the learned counsel Mr. Phanse appearing for the applicant has grossly affected their credibility and goes to root of the case. In any case when 12 other accused persons have been acquitted, the evidence will have to be scrutinized

minutely along with the evidence of the investigating officer, who has recorded their statements during the course of investigation. The obvious inconsistency in the version of the prosecution case entitle the applicant for the relief prayed in the application, for suspension of sentence and his release on bail.

During the pendency of the appeal, the sentence imposed by the vide impugned judgment dated 17/08/2023, on the present applicant is suspended. He is entitled to be released on bail on the following stipulations:-

ORDER

- (a) Application is allowed.
- (b) Applicant - Ravikant Motiram Patil shall be released on bail in connection with Sessions Case No. 127 of 2012 on furnishing P.R. Bond to the extent of Rs.25,000/- with one or more sureties in the like amount.
- (c) The applicant shall mark his attendance before the concerned police station once in every three months.
- (d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The appellant shall not tamper with evidence.
- (e) On being released on bail, the applicant shall give his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(SMT. BHARATI DANGRE, J.)