

GRM

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

CRIMINAL WRIT PETITION NO. 5330 OF 2022

Shrikant Bolagoudar S/o. Basavaraj M.

Bolagoudar

... Petitioner

V/s.

Union of India & Ors.

... Respondents

Mr. Madhukar P. Dalvi a/w Hitendra Parab, Mohit Rao, Adv. for the Petitioner.

Mr. Shreeram Shirsat a/w Nishi Singhvi, Adv. for Respondent Nos. 1 to 3.

Mr. Arfan Sait, APP for the State/Respondent.

CORAM : R. G. AVACHAT, J.

DATED : FEBRUARY 10, 2023

P.C. :

The challenge in this writ petition is to the order dated 29/07/2022, passed by the Armed Forces Tribunal, Regional Bench, Mumbai refusing to suspend substantive sentence of imprisonment imposed against the petitioner herein.

2. The petitioner has been convicted by the Court Martial on 19/04/2022 and therefore sentenced to undergo 24 calendar months' rigorous imprisonment, besides dismissed with disgrace from naval service, etc.

3. The petitioner has preferred an appeal against his conviction and sentence before the Armed Forces Tribunal, Regional Bench, Mumbai, which has refused to grant him bail pending the appeal.

4. Heard.

5. Learned Advocate for the petitioner would submit that the petitioner is just 26 years of age. As against 24 calendar months' rigorous imprisonment and dismissal with disgrace from naval service, etc., the petitioner is behind bars for little over 10 months. He therefore urged for allowing the petition.

6. Learned Advocate for the respondent/Union of India would on the other hand submit that considering the seriousness of offence and it being Court Martial Proceeding, the petitioner shall not be granted bail. The Tribunal would decide the appeal within two weeks. He therefore urged for rejection of the petition.

7. Considered the submissions advanced.

8. The petitioner is 26 years of age. Besides the sentence of 2 years rigorous imprisonment, he has also been dismissed from the service. He has been behind bars for little over 10 months, as against 24 months' sentence. His wife and children are said to be dependent on him. This Court is therefore inclined to allow the petition.

9. The sentence of imprisonment awarded by Court Martial, Indian Navy of Indian Naval Ship against the petitioner, is hereby suspended and the petitioner is directed to be released on his executing PR Bond in the sum of Rs. 25,000/- (Rupees Twenty-five Thousand Only) and Surety Bond in the like amount, pending his

appeal before the Armed Forces Tribunal, Regional Bench, Mumbai.

10. The bail bond shall be executed before Jail Authority where the petitioner is presently lodged.

11. The writ petition stands disposed of accordingly.

12. Parties to act on the authenticated copy of this order.

(R. G. AVACHAT, J.)