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CRI APPLN 51 OF 2024

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**904 CRIMINAL APPLICATION NO. 51 OF 2024
IN APPEAL/13/2024**

Bhika Naval Koli

Age: 39 years, Occu.: Labour,

R/o. Bharvade Tal.Shirpur,

Dist.Dhule.

....Applicant

Versus

The State of Maharashtra

Through Shirpur City Police Station,

Tal.Shirpur, Dist.Dhule.

...Respondent

.....

Advocate for Applicant : Mr. Chetan V. Bhadane

APP for Respondent : Mr.S.M.Ganachari

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 05 JANUARY, 2024

PRONOUNCED ON : 09 JANUARY, 2024

ORDER :-

1. Issue notice to the respondent-State. Learned APP waives service of notice for the respondent-State.

2. Heard.

3. Present application is for suspension of sentence and grant of bail during pendency of Criminal Appeal No.13 of 2024.

4. It is submitted by learned Counsel for the applicant that there is false implication for commission of offence under Sections 353 and 332 of the Indian Penal Code (IPC). That here is no cogent and reliable evidence but learned trial Judge has accepted the prosecution case and convicted applicant for offence under Sections 353 and 332 of the IPC and sentenced to suffer six months rigorous imprisonment and three months rigorous imprisonment and to pay fine respectively. That applicant was on bail during the trial. That he has preferred appeal, which would take long time for decision and so prayers are raised for suspension of sentence and grant of bail during pendency of appeal.

5. Learned APP opposed the application on the ground that serious offence has been committed. That case is proved beyond reasonable doubt. That applicant is likely to misuse the liberty, if bail is granted, for tampering the witnesses.

6. Perused the record, which shows that complaint was lodged at Shirpur City Police Station, Dist.Dhule alleging that complainant, who was working as Gramsevak at Grampanchayat Bharvade, Tal.Shirpur, Dist.Dhule, lodged report alleging that on 09-11-2020 at

about 12:00 noon, while the informant was present in the Grampanchayat Office, the applicant approached him and asked about his application in respect of cleaning and maintaining the Gutter and abused informant. It is further alleged that applicant caught-hold of collar of his shirt and pressed neck of complainant and beat him with fist blows on stomach. The complainant informed said incident to his superior and on the next day report was lodged at Shirpur City Police Station. On the strength of such report, crime No.250 of 2020 came to be registered and applicant was chargesheeted for offence punishable under Sections 353, 332, 504 and 506 of the IPC. On appreciation of evidence, learned trial Court held applicant guilty of the charges under Sections 353 and 332 of the IPC.

7. Statement is made across the bar that applicant was on bail during trial. Fine amount is also shown to be deposited. Considering the nature of allegations and duration of sentence, relief as prayed deserves to be granted.

ORDER

(I) Criminal Application stands allowed.

(II) The substantive sentence imposed on the applicant in Sessions Case No.76 of 2022 by the learned Additional Sessions Judge, Dhule on 23-11-2023 stands suspended till the final hearing and disposal of Criminal Appeal No.13 of 2024.

(III) The applicant Bhika Naval Koli be released on P.R. Bond of Rs.15,000/- (Rs. Fifteen thousand only) with one solvent surety in the like amount.

(IV) The applicant shall not commit any criminal activity.

(V) The applicant shall remain present before the learned trial Judge once in six months, till final hearing and disposal of the appeal, commencing from the date he tenders bail papers and thereafter, the trial Judge to fix dates for his subsequent appearances.

(VI) In case of two consecutive defaults on the part of the applicant to remain present before the trial Court, the trial Court to inform this Court about the same and in that eventuality, the prosecution would be at liberty to file an application for cancellation of the bail granted to the applicant.

(VII) Bail before the trial Court.

(ABHAY S. WAGHWASE)
JUDGE