



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 107 OF 2024
IN
CRIMINAL APPEAL NO. 32 OF 2024

Rahul Bhawan Khillare
Age: 24 years, Occu. Labour,
R/o. Jitamata Nagar, Tq.& Dist. Hingoli.Applicant

VERSUS

The State Of Maharashtra
Through Police Inspector
Hingoli City Police Station, Dist. Hingoli.Respondent

.....
Mr. Vishal Amritlal Bagdiya, Advocate for Applicant
Ms. Ashlesha S. Deshmukh, APP for respondent-State
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CORAM : ABHAY S. WAGHWASE, J.

DATE : 13th NOVEMBER, 2024

ORDER :

1. Learned advocate for applicant seeks leave to amend to add the prayer clause.
2. Leave granted. Amendment to be carried out forthwith.
3. This application is filed for suspension of sentence and grant of bail in consequence of judgment and order of conviction dated 11.12.2023 passed by Additional Sessions Judge, Hingoli in Sessions Case No. 01/2022.

Bhagyawant Punde

4. Learned counsel for the applicant submits that applicant has been held guilty for offence under Section 324 read with 34 of IPC. Learned counsel for applicant pointed out that present applicant is Accused No. 2. Primary and main allegations are against Accused No. 1- Rohan. That, as against present applicant there are allegations of hitting with a grip of alleged article sword. That, applicant is already behind bars since more than two years and few months and there is sentence for three years and to pay fine, which is already paid by the applicant and hence, application may kindly be allowed.

5. Learned APP for State strongly opposed the application on the ground that there is use of deadly weapon. She submit that offence is serious in nature and appeal is still pending, therefore, prayer of applicant may be rejected.

6. Heard learned counsel for the applicant and learned APP for State. Perused the papers.

7. It seems that crime was registered at Hingoli Police Station vide Crime No. 239/2021 for offence under Sections 307, 324, 294 and 506 r/w 34 of IPC and under Section 25 of the Arms Act. Apparently, present applicant is impleaded as Accused

No. 2. After conclusion of trial, trial Judge seem to have hold both, Accused No. 1 and present applicant guilty for offence under Section 324 read with 34 of IPC and they are acquitted from charge under Section 307, 294, 506 read with 34 of IPC and even there is acquittal under Section 4 r/w 25 of Arms Act. So far as present applicant is concerned, learned APP submitted that there are allegations of hitting complainant by means of handle/grip of sword. Medical expert has issued injury certificate and finally considering the same, learned trial Judge has held applicant guilty only for offence under Section 324 of IPC. It seems that since the date of arrest, applicant is behind bars for more than two years and two months and he is made to suffer sentence of three years. Therefore, considering the nature of allegations and more than 50% sentence is already undergone by the applicant and appeal being still pending, application deserves to be allowed. Accordingly, I proceed to pass the following order:

ORDER

- I. Criminal Application stands allowed.
- II. The substantive sentence imposed on the applicant- Rahul Bhawan Khillare in Session Case No. 01 of 2022 by the Additional Sessions Judge, Hingoli on 11.12.2023 stands

suspended till the final hearing and disposal of Criminal Appeal No. 32 of 2024.

- III. The applicant be released on P.R. Bond of Rs.15,000/- (Rupees Fifteen Thousand Only) with two solvent sureties 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 bail granted to the applicant.
- VII. Bail before the trial court.

[ABHAY S. WAGHWASE, J.]