



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 167 OF 2024
IN CRIMINAL APPEAL NO. 325 OF 2022

Ranjit Abhaysingh Rath

....Applicant

VERSUS

The State of Maharashtra and Another

... Respondents

.....

Mr. Narwade Narayan B., Advocate for Applicant

Ms. U. S. Bhosle, APP for Respondent No.1 – State

Mr. S. E. Shekade, Advocate for Respondent No.2 - Informant

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CORAM : R.G. AVACHAT &
NEERAJ P. DHOTE, JJ.

DATE : 04.03.2024

PER COURT :

1. This is an Application for suspension of substantive sentence awarded to the Applicant / Appellant by the learned Additional Sessions Judge, Ahmednagar, in Sessions Case No.303/2014 vide Judgment and Order dated 16.04.2022.

2. Heard Mr. Narwade, the learned Advocate for the Applicant, Ms. Bhosle, the learned APP for the Respondent No. 1 – State and Mr. Shekade, learned Advocate for Respondent No. 2 – Informant.

3. Learned Advocate for the Applicant submits that the co-Appellants have been granted bail and since there is change in circumstances, the Applicant is also entitled for bail.

4. Learned APP for Respondent No.1 – State strongly opposes the Application and submits that the Application may not be allowed.

5. Learned Advocate for Respondent No.2 – Informant vehemently opposes the Application and submits that the Applicant is not entitled for bail.

6. In nutshell, the case of Prosecution is that, the incident of assault took place on 26.02.2014 between the Informant and witnesses on one side and the Applicant and co-accused on the other side. There is no dispute that out of the same incident, the cross complaint / FIR has been lodged by the present Applicant and the trial arising out of the said cross complaint / FIR has concluded in the acquittal. It is also not in dispute that the Appeal against acquittal of the Informant and witnesses in the case in hand has been admitted by this Court vide order dated 08.03.2023.

7. We have gone through the said order dated 08.03.2023. The relevant observation in the said order runs thus:

“4.
Therefore, the question arises as to whether there is proper appreciation of evidence or not. It is required to be considered as to which party was aggressive. No doubt, as per the decisions in **Anil Sonavane Vs. The State of Maharashtra**, [(1976)] 78 BOM. L.R. 325], **Nathilal Vs. State of U.P.**, [1990 SCC (Cri.) 638] and **State of M.P. Vs. Mishrilal (Dead) and others**, [AIR 2003 SC 4089], the cross complaints and cross cases arising out of incident of riot, though may be one triable by Court of Sessions or another is triable by Magistrate, then they should be decided by the same judge and their ratio has been adhered to in this case, but when it comes to the cross case, it requires minute scrutiny of the evidence”.

8. It is also not in dispute that the present Applicant had suffered injuries in the said incident out of which one was ‘right fracture’. It is also not in dispute that the co-Appellants have been granted bail and their sentences have been suspended by the order

dated 12.07.2022. The injured in the case in hand has resumed his daily pursuits. The Applicant is behind the bars for a period of twenty (20) months.

9. It is needless to state that both the Appeals i.e. present Appeal and the Appeal against acquittal filed by the Victim as well as State will have to be heard together. In this view of the matter, we proceed to pass the following order:

ORDER

(I) Criminal Application is allowed.

(II) The substantive sentence imposed by the learned Additional Sessions Judge, Ahmednagar, in Sessions Case No.303/2014 vide Judgment and Order dated 16.04.2022. on the Applicant / Appellant, namely, Ranjit Abhaysingh Rathi, is suspended during the pendency of the present Appeal.

(III) The Applicant/ Appellant be released on bail on furnishing P.R. Bond of Rs.15000/- [Rupees Fifteen Thousand Only] with one surety in the like amount.

(IV) Bail before the Trial Court.

7. Criminal Application stands disposed of accordingly.

[NEERAJ P. DHOTE, J.]

[R.G. AVACHAT, J.]