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CRIAPPLN 460 OF 2024

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

**CRIMINAL APPLICATION NO. 460 OF 2024
IN APPEAL/100/2024**

Sarfaraj Bashiroddin Shaikh
Age: 67 years, Occu.: Retired,
R/o. Rathoda, Tq.Nilanga,
Dist.Latur.

....Applicant
(Orig. Accused)

Versus

The State of Maharashtra
Through Police Station Officer,
Police Station Nilanga,
Tq.Nilanga, Dist.Latur.

.....Respondent

.....
Advocate for Applicant : Mr.P. P. More
APP for Respondent : Mr.S.M.Ganachari

.....
CORAM : ABHAY S. WAGHWASE, J.

DATE : 12-02-2024

ORDER :

1. Applicant hereby seeks suspension of sentence and grant of bail on account of conviction recorded by the Additional Sessions Judge, Nilanga, District Latur in Special Case (Atrocity) No.04/2019.
2. In support of relief of suspension of sentence, learned Counsel for the applicant pointed out that applicant is convict for offence

under Section 504 r/w 34 of the Indian Penal Code (IPC) and he is sentenced to suffer simple imprisonment for four months and to pay fine vide judgment and order dated 13-12-2023 passed by the Additional Sessions Judge, Nilanga, District, Latur. It is submitted that fine amount has already been deposited. It is further submitted that appeal has been preferred against the said judgment very recently and as much more time is required to hear and decide the appeal, it is prayed that substantive sentence be suspended and applicant be set at liberty on bail.

3. Learned APP opposed the application on the ground that crime is registered under the provisions of the Scheduled Castes and Scheduled Tribes Act. That considering the nature of offence, he prays that relief be refused.

4. After hearing the submissions of both the sides, apparently it is emerging that prosecution was launched for offences under Sections 294, 323, 504, 506 r/w 34 of the IPC and under Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. Learned trial Judge seems to have awarded sentence of simple imprisonment for four months to the

applicant for offence under Section 504 read with 34 of the IPC and he is directed to pay fine.

5. Considering the quantum of sentence and as much more time is required to hear and decide the appeal, substantive sentence awarded to the applicant is required to be suspended and he deserves to be set at liberty. Accordingly, I proceed to pass following order :

ORDER

- (i) Criminal Application No.460 of 2024 stands allowed.
- (ii) The substantive sentence imposed on the applicant Sarfaraj Bashiroddin Shaikh in Special Case (Atrocity) No.4 of 2019 by the learned Additional Sessions Judge, Nilanga, Dist.Latur on 13-12-2023 stands suspended till final hearing and disposal of Criminal Appeal No.100 of 2024.
- (iii) The applicant be released on P.R. Bond of Rs.15,000/- (Rs. 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 the bail granted to the applicant.
- (vii) Bail before the trial Court.

(ABHAY S. WAGHWASE)
JUDGE