



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 494 OF 2024
IN
CRIMINAL APPEAL NO. 107 OF 2024

Rajendra S/o Subhash Borhade,
Age 45years, Occu- Labour,
R/o. Manoli, Tal. Sangamner,
Dist. Ahmednagar.

... Applicant

Versus

The State of Maharashtra,
Through Police Inspector,
Ashvi City Police Station, Ashavi,
Tal. Sangamner, Dist. Ahmednagar.

... Respondent

...
Mr. K. N. Shermale, Advocate for Applicant/Appellant.
Mr. S. M. Ganachari, APP for Respondent - State.

...

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 01 FEBRUARY 2024

PRONOUNCED ON : 12 FEBRUARY 2024

ORDER :

1. Convict for offence punishable under sections 353 and 323 is hereby seeking suspension of sentence and grant of bail during pendency of appeal, which is preferred questioning the legality and maintainability of Session Case No. 53 of 2019, dealt and decided by learned Additional Sessions Judge, Sangamner.

2. Learned counsel for applicant would submit that, apparently there is false implication. Prosecution had failed to

establish the charges beyond reasonable doubt. There is improper appreciation of both evidence as well as law and therefore, conviction recorded is taken exception to by filing appeal. He pointed out that, learned trial Judge has sentenced the applicant to suffer for imprisonment three months. That, appeal will take long time to be heard and decided and considering the short sentence, it is prayed that, sentence be suspended and applicant be set at liberty during pendency of appeal.

3. Learned APP opposed the application by pointing out that, specific role of applicant is cogently proved. Ingredients of offence are available in the evidence. For above reasons, he prays to refuse the relief.

4. After going through the papers, it seems that, applicant was tried for offence punishable under sections 353, 323, 504 and 506 of IPC by launching prosecution upon investigation carried out by PW3 PSI Dattatray Uje. Learned trial Judge seems to have appreciated the evidence and has finally held accused guilty for the offence punishable under sections 353 and 323 of IPC.

5. Judgment seems to be of 04.01.2024. Applicant has preferred appeal in January 2024. However, admittedly, appeal

will take long to be heard and decided. Considering the nature of accusations and quantum of sentence, relief as prayed deserves to be granted. Hence, I proceed to pass the following order :-

ORDER

- (i) Criminal Application stands allowed.
- (ii) The substantive sentence imposed on the applicant Rajendra S/o Subhash Borhade in Session Case No. 53 of 2019 by the learned Additional Sessions Judge, Sangamner on 04.01.2024 stands suspended till the final hearing and disposal of Criminal Appeal No.107 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 their 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, J.)