



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1589 OF 2024
IN APPEAL/364/2024

Samadhan Bhikan Pathare
Age: 27 years, Occu.: Agri.,
R/o. Sawkheda, Tq.Vaijapur,
Dist.Aurangabad.

....Applicant

Versus

The State of Maharashtra

....Respondent

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Advocate for Applicant : Mr.Rohit Patwardhan h/f. Mr. S.S. Jadhav
APP for Respondent : Mrs.Chaitali Choudhari - Kutti

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CORAM : ABHAY S. WAGHWASE, J.

DATE : 15 APRIL, 2024

ORDER :-

1. This is an application for suspension of sentence and grant of bail on account of conviction recorded by learned Additional Sessions Judge-I, Vaijapur, Dist.Aurangabad in Sessions Case no.1 of 2019 vide judgment and order dated 14-03-2024 recording guilt for offence under Section 324 of the Indian Penal Code (IPC).

2. It is submitted that applicant was tried for commission of offence under Sections 143, 147, 148, 302, 307, 324, 323, 504, 506 r/w 149 of the IPC and Section 135 of the Bombay Police Act. That finally upon trial, conviction is recorded for offence under Section 324 of the IPC and he is sentenced to suffer rigorous imprisonment for two years and to pay fine. It is pointed out that applicant was on bail during trial. There are allegations of use of stick but the same is not recovered. Even allegations of causing fatal injury is attributed to another accused namely Bhikan but he is already beneficiary of order of suspension of sentence. That appeal is preferred and same is pending and it would take long time to be heard and decided. Hence, above prayers are raised.

3. While opposing the above relief, learned APP pointed out that though conviction is for Section 324 of the IPC, one person has lost life. There is eye witness account. Hence, she prays to reject the application.

4. After hearing submissions of both sides, it seems that present applicant is one of the accused, who was tried for the

offence under Sections 143, 147, 148, 302, 307, 324, 323, 504, 506 r/w 149 of the IPC and Section 135 of the Bombay Police Act. Operative part of the judgment shows that by judgment and order dated 14-03-2024, as regards present applicant is concerned, he is held guilty for offence under Section 324 of the IPC and is sentenced to suffer rigorous imprisonment for two years and to pay fine. There is no dispute that assault is made by use of stick.

5. Appeal is apparently filed in 2024. Applicant was reported to be on bail during trial. Taking into consideration the quantum and sentence, nature of allegation, relief as prayed deserves to be granted. Accordingly, I proceed to pass following order :

ORDER

(I) Criminal Application stands allowed.

(II) The substantive sentence imposed on the applicant in Sessions Case No.1 of 2019 by the learned Additional Sessions Judge-I, Vaijapur, Dist.Aurangabad on 14-03-2024 stands suspended till the final hearing and disposal of Criminal Appeal No.364 of 2024.

(III) The applicant Samadhan Bhikan Pathare 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