



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

**CRIMINAL APPLICATION NO.1756 OF 2024 IN
CRIMINAL APPEAL NO.403 OF 2024**

Virsingh @ Virya Basrusingh Sardar ... APPLICANT

VERSUS

The State of Maharashtra ... RESPONDENT

.....
Mr. Rohit Patwardhan, Advocate holding for
Mr. Satej S. Jadhav, Advocate for applicant
Mrs. S.N. Deshmukh, A.P.P. for respondent
.....

**CORAM : R.G. AVACHAT AND
NEERAJ P. DHOTE, JJ.**

DATE : 8th AUGUST, 2024

ORDER :

This is an application for suspension of sentence imposed by learned Additional Sessions Judge-1, Nanded in Sessions Case No.55/2017 vide judgment and order dated 30/3/2024, convicting the applicant/ appellant for the offences punishable under Sections 307, 332, 325, 506 read with Section 34 of the Indian Penal Code and sentenced to suffer imprisonment for life with fine.

2. Heard learned Advocate for the applicant and

learned A.P.P. for the respondent – State. Perused the evidence on record.

3. It is the case of prosecution that the victim (P.W.1), who is a Policeman attached to Shivajinagar Police Station, Nanded was returning home from his duty. At that time, he noticed the applicant who was absconding in another crime registered for the offence punishable under Section 354 of the Indian Penal Code, registered with Shivajinagar Police Station, Nanded. He stopped and caught hold of the applicant and two others. The applicant and co-convicts fled away. He followed them. At some distance, the applicant and co-convicts assaulted him with deadly weapon such as dagger. He suffered injuries for which he was hospitalised. On his report, the crime came to be registered against the applicant and co-convicts.

4. The learned Trial Court, after the trial, passed the aforesaid judgment and order.

5. It is submitted by learned Advocate for the applicant/ appellant that, the punishment of life imprisonment is disproportionate to the offence for which the applicant has been convicted. He drawn our attention to the medical

evidence in support of his contention that on the very next day the injured was normal. He submits that, there is variance in the testimony of doctors who treated the injured. He submits that, the applicant is behind the bars for more than 4 years. He submits that, though the applicant is having criminal past, that will not be sufficient to reject the application.

6. It is submitted by learned A.P.P. that, the medical evidence on record goes to show that the victim suffered grievous injuries. She submits that, the weapon used was dagger and the applicant had no regard that the victim was a Policeman. She submits that, from the medical evidence on record, it is clear that, the applicant was having intention to commit murder of the injured. She submits that, the applicant is having criminal antecedents and if he is granted bail, he will again resort to criminal activities. She submits that, there are 7 offences registered against the applicant. She submits that, the application be rejected.

7. We have considered the submissions raised by learned counsel for the applicant/ appellant and learned A.P.P. We have carefully scrutinised the evidence on record. There is no dispute that the victim – injured is a Policeman. There is

also no dispute that the applicant was known to him. The evidence on record goes to show that the prosecution has examined P.W.7 Dr. Sandeep Utkure who was the R.M.O. at Lotus Hospital, which was a private hospital. In his evidence, he deposed the nature of the injuries as C.L.W., incised, grievous wounds. However, the evidence of P.W.8 Dr. Ram Chidrawar of the same hospital gave the injury in the nature of C.L.W. This clearly shows variance in the opinion of two doctors of the very same hospital. Their evidence nowhere shows that the injuries suffered by the victim were sufficient in ordinary course of nature to cause death, had they not been treated in time. Admittedly, there are no medical papers from the Government Hospital. The evidence of P.W.8 Dr. Ram Chidrawar shows that, from 4/4/2017 till his discharge, the condition of the injured was normal. It is also evident that the victim injured was discharged from the hospital after 6 days. It is nobody's case that, the applicant is still required to take treatment for his injuries. Admittedly, the victim has joined his daily pursuits after his discharge.

8. Admittedly, the offence under Section 307 of the Indian Penal Code though provides for punishment which may extend to life imprisonment, it also provides for sentence which

may extend to 10 years imprisonment.

9. From the above discussed medical evidence, in our prima facie view, punishment of imprisonment for life appears to be disproportionate to the crime. The applicant is behind the bars for more than 4 years. There is no possibility that the appeal would come up for final hearing in the near future. As regards the criminal antecedents are concerned, the papers made available by learned A.P.P. show that, one offence each were of the years 2012, 2013, 2014, 2016 and two offences were of the year 2017. Law will take its own course in respect of his criminal antecedents. In this view of the matter, we proceed to pass the following order :-

ORDER

- (i) The Criminal Application is allowed.
- (ii) Pending the appeal, the execution of the substantive sentence imposed by learned Additional Sessions Judge-1, Nanded in Sessions Case No.55/2017 vide judgment and order dated 30/3/2024 to stand suspended and the applicant/appellant be released on bail on his executing P.R. bond in the sum of Rs.30,000/- (Rupees thirty thousand) with one or two sureties in the like amount.

(iii) The applicant shall attend Vazirabad Police Station, Nanded on last Monday of every month between 4.00 p.m. and 6.00 p.m. until further orders.

(NEERAJ P. DHOTE, J.)

(R.G. AVACHAT, J.)

fmp/-