



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2071 OF 2024
IN APPEAL/305/2022

Basavaraj S/o. Umakant Honmale
Age: 30 years, Occu.: Agriculture,
R/o.Sakol, Tal.Shirur-Anantpal,
Dist.Latur.

..Applicant
(Accused)

VERSUS

The State of Maharashtra,
Through Police Station Udgir Rural,
Tal. Udgir, Dist.Latur.

..Respondent

...

Advocate for Applicant : Mr. Krishna Pratap Rodge
APP for Respondent : Mr.N.D.Batule

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CORAM : ABHAY S. WAGHWASE, J.

DATE : 11 JUNE, 2024

ORDER :-

1. Convict, who has preferred appeal against judgment and order passed by learned Additional Sessions Judge, Udgir, Dist.Latur in Sessions case no.76 of 2019 dated 09-03-2022 convicting appellant under Section 353 of the Indian Penal Code (IPC), is now praying for suspension of sentence and grant of bail.

2. It is submitted by learned Counsel for the applicant that applicant is chargesheeted and tried before learned Additional Sessions Judge, Udgir for offence under Sections 353, 504 and 506 of the IPC and ultimately conviction has been recorded by learned trial judge. That learned trial Judge has held applicant guilty for offence under Section 353 of the IPC and sentenced him to suffer rigorous imprisonment for one year and to pay fine. That applicant is already acquitted for offence under Sections 504 and 506 of the IPC. It is further submitted that there is improper appreciation of evidence at the hands of the trial Court. That applicant has a good case on merits in appeal, however, as it would take long time to be heard and decided and in view of short term sentence imposed on applicant, relief as prayed is sought to be granted.

3. Learned APP objected application on the ground that offence has been committed against public servant. That learned trial court has correctly appreciated the evidence and held applicant guilty for offence under Section 353 of the IPC. On above grounds, relief is resisted.

4. Heard. Perused the papers.

5. It seems that present applicant was chargesheeted for commission of offence under Sections 353, 504 and 506 of the IPC, however, by virtue of judgment and order passed by the learned Additional Sessions Judge, Udgir, dated 09-03-2022, conviction is only recorded for offence under Section 353 of the IPC. Applicant is sentenced to suffer rigorous imprisonment for one year for offence under Section 353 of the IPC and he is sentenced to suffer rigorous imprisonment for one year. Appeal is preferred against the impugned judgment and same is numbered as Criminal Appeal No.305 of 2022. However, it would take long time to be heard and decided. Therefore, considering the above circumstances, 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.76 of 2019 by the learned Additional Sessions Judge, Udgir, on 09-03-2022 stands suspended till the final hearing and disposal of Criminal Appeal No.305 of 2022.

(III) The applicant - Basavaraj S/o. Umakant Honmale be released on P.R. Bond of Rs.25,000/- (Rs. Twentyfive 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