



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3695 OF 2024
IN
CRIMINAL APPEAL NO. 775 OF 2024

Namdeo Indrabhan Sarokte,
Age : 46 years, Occu. : Agriculture,
R/o. Jahagirdar Wadi,
Tal. Akole, Dist. Ahmednagar

.... Applicant.

Versus

The State of Maharashtra,
Through P.S.O. Rajur Police Station,
Tal. Akole, Dist. Ahmednagar

.... Respondent.

...
Mr. Vinod Yashwantrao Bhide, Advocate for Applicant.
Mrs. Ashlesha Deshmukh, APP for Respondent - State.
...

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 30 AUGUST 2024

PRONOUNCED ON : 02 SEPTEMBER 2024

ORDER :

1. The applicant prays for suspension of substantive sentence and grant of bail during pendency of above appeal, which is arising out of judgment and order of conviction recorded by Additional Sessions Judge, Sangamner, District Ahmednagar in Sessions Case No.23 of 2013 convicting applicant/appellant for offence punishable under section 325 of Indian Penal Code (IPC).

2. It is submitted that, applicant faced above trial on

allegation of committing murder of one Prabhakar. However, it is pointed out that, accused persons were acquitted from the charge of sections 302, 504 r/w section 34 IPC and conviction has been recorded for offence under section 325 IPC. It is pointed out that, there are mere allegations of beating by fist and kick blows. That, there were no external injuries. That, deceased was addicted to liquor and while he was under influence of liquor, the incident had taken place. That, there were no internal injuries also. That death is due to internal bleeding. Learned counsel pointed out that, main accused has already died. Present applicant was accused no.2. Since beginning, he was on bail. That, even after conviction, trial court suspended the sentence till today. That, case of prosecution was rested on 08 witnesses. That, alleged incident was of 25.03.2013. Death has taken place on 26.03.2023, autopsy was conducted on 27.03.2013 and two days thereafter instant FIR has been lodged. Therefore, there is a very good case in appeal. However, it will take long time to be heard and decided and hence prayers for suspension of sentence as well as grant of bail are pressed into service.

3. Learned APP strongly opposed the application by pointing out that assault resulted in death. That, there are external as well as internal injuries. That, autopsy doctor has

attributed death due to beating. That, there is an eye witness account. Therefore, considering the serious offence, she prayed that, relief as prayed may not be granted.

4. After considering the submissions of both side and on going through the papers, it seems that, incident took place on 25.03.2013 in the evening. Mother-in-law of deceased Prabhakar seems to have set law into motion. She has alleged that, her son-in-law was given beating by Namdeo Rama Sarokte and Namdeo Indrabhan Sarokte. Papers show that, deceased Prabhakar died on 26.03.2013. Autopsy Surgeon has issued opinion about death to be due to shock following blunt internal injuries. Apparently, occurrence is of 25.03.2013 and death has taken place on 26.03.2013 and autopsy was conducted on 27.03.2023 and thereafter FIR seems to have been lodged. Prima facie allegations are of giving beating.

5. Upon trial, there is acquittal from charge under section 302 IPC, conviction is recorded for offence under section 325 IPC. Allegations of beating are attributed against two persons.

6. Taking the above material into consideration and the fact that applicant was on bail during trial and even when trial

court has suspended the sentence till today, 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 Namdeo Indrabhan Sarokte in Sessions Case No.23 of 2013 by learned Additional Sessions Judge-1, Sangamner, District Ahmednagar on 31.07.2024 stands suspended till the final hearing and disposal of Criminal Appeal No.775 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.)