



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4040 OF 2024
IN
CRIMINAL APPEAL NO. 878 OF 2024

Nana s/o Sudam Sutar,
Age : 42 years, Occu: Labour,
R/o: Purgrast Colony, Peth Beed,
Taluka and District Beed.

... Applicant

Versus

The State of Maharashtra
Through Police Station Officer,
Peth Beed Police Station,
Taluka and District Beed.

... Respondent

.....
Mr. Yogesh Krishna Bobade, Advocate for the Applicant.
Mr. S. K. Shirse, APP for Respondent-State.
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CORAM : ABHAY S. WAGHWASE, J.

DATED : 16 OCTOBER 2024

ORDER :-

1. By way of instant application, convict in Sessions Case No. 55 of 2019 for offence punishable under Sections 353, 307 and 336 of IPC, is seeking suspension of sentence and grant of bail during pendency of appeal.

2. Learned counsel for the applicant submitted that applicant was tried by learned Additional Sessions Judge-2, Beed in Crime No. 172 of 2017 for commission of above offences. He pointed out that there are allegations of inserting sword inside a vehicle of police officer. He submitted that there are no injuries. That, even sword is not seized in this crime. That, maximum sentence awarded is of imprisonment for three years. He further submitted that, applicant was on bail during trial. That, he has preferred appeal and the same is of the year 2024 and would take long time to be heard. For all above reasons, he prays for relief of suspension of sentence and grant of bail.

3. Learned APP strongly opposed pointing out that offence is serious. There was attempt to attack police official. There is eye witness account. There is use of deadly weapon like sword. Fortunately, police officials managed to ward off the blow. That, considering the nature of allegations, learned APP prays to refuse the relief.

4. After considering the submissions and on going through the papers, it seems that present applicant was tried vide Sessions Case No. 55 of 2019 for offence under Sections 353, 307, 336, 504 of IPC,

Section 7 of Criminal Law Amendment Act and under the provisions of the Arms Act. Trial seems to have culminated into conviction for offence under Sections 353, 307 and 336 of IPC and Section 7 of the Criminal Law Amendment Act, but there is acquittal from offence under Section 504 of IPC and the provisions of the Arms Act, i.e. Section 4/25 and 2/27 of the Arms Act. Admittedly, maximum sentence awarded seems to be imprisonment for three years. Though there are allegations of use of sword, same is shown to be not recovered and rather it is shown to be recovered in another crime bearing no. 173 of 2017, whereas present crime is 172 of 2017. As stated above, learned trial court has acquitted applicant from offence under Sections 4/25 and 4/27 of the Arms Act. Resultantly, taking into account that applicant was on bail during trial, 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 Nana s/o Sudam Sutar in Sessions Case No. 55 of 2019 by the Additional Sessions Judge-2, Beed on 06.09.2024 stands suspended till the final hearing and disposal of Criminal Appeal No. 878 of 2024.

- III. The applicant be released on P.R. Bond of Rs.15,000/- (Rupees Fifteen Thousand Only) with two solvent sureties in the like amount.
- IV. The applicant shall not indulge in 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 bail granted to the applicant.
- VII. Bail before the trial court.

[ABHAY S. WAGHWASE, J.]

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