

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

915 CRIMINAL APPLICATION NO.3540 OF 2023
IN APEAL/991/2023

Yogesh Pandurang Satpute

..Applicant

Versus

The State of Maharashtra

..Respondent

Advocate for Applicant : Shri. K. N. Shermale
APP for Respondent / State : Shri. B. B. Bhise

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

Dated : March 27, 2024

PER COURT :-

1. This is the application for suspension of sentence awarded by learned Additional Sessions Judge, Jalgaon, Dist. Jalgaon in Sessions Case No.243 of 2013 vide Judgment and order dated 08.11.2022 by which the Applicant / Appellant has been convicted for the offence punishable under Sections 302 and 307 r/w. Section 34 of the Indian Penal Code.

2. Heard learned Advocate for the Applicant / Appellant and learned APP for State. Perused the papers on record.

3. It is submitted by learned Advocate for the Applicant / Appellant that the dash by the Applicant's Car to the Motorcycle is a

pure accident as seen from the police papers. He submits that had there been intention to give the dash, the vehicles involved in the accident would have damaged to a great extent. He submits that the Applicant / Appellant was on bail during trial. He submits that the appeal would take its own time for final hearing and therefore, the sentence be suspended.

4. It is submitted by the learned APP that the statement of the deceased was recorded by the police wherein he has stated that the applicant who was driving the car gave dash in a full speed with the intention to kill them. He submits that the witnesses also deposed that the applicant had given dash by the car to the motorcycle, on which they were travelling. He points out the photographs of the vehicles. He submits that the applicant is having criminal background and therefore, the application be rejected.

5. What is seen from the evidence on record is that the witness by name Mahendra had contested the election of Grampanchayat against wife of the Applicant and they both got defeated in the election. On the day of the incident i.e. 19.05.2013, when deceased and the witnesses were standing on the road, the Applicant and his wife came there and asked them as to why they were standing in the middle of the road. Quarrel took place between them. The Applicant / Appellant

assaulted deceased and witnesses. The deceased and the witnesses proceeded on the motorcycle to the police station to lodge the report. The Applicant went home and came with his wife in his car and gave dash to the motorcycle from the backside. Due to the said dash, the deceased and the witnesses suffered injuries. Injured Bhagwan succumbed to the injuries after five days of the incident.

6. What is not in dispute is that there is no report by the Motor Vehicle Inspector or the Competent Authority in respect of the vehicle involved in the incident i.e. car. Therefore, it is not known as to whether there was any mechanical defect in the car. The photographs of the vehicles, which are on record, show that there is no severe damage to both the vehicles. The police papers such as inquest and the accident report speak of accident between the vehicles. It is not in dispute that the deceased and the injured had no opportunity to actually witness the dash since they were riding on the motorcycle and the dash was from the behind. The spot panchanama show that the road on which the incident had taken place, was rough and narrow road. Whether there was intention to kill or it was mere accident will be decided after re-appreciating the evidence on record. There is no possibility that the Appeal would come up for final hearing in the near future. The Applicant was on bail during trial. Mere criminal background will not be sufficient to reject the application. Considering these aspects, we proceed to pass

the following order.

ORDER

- (i) The Application is allowed.
- (ii) The substantive sentence imposed on the Applicant namely Yogesh Pandurang Satpute by learned Additional Sessions Judge, Jalgaon, Dist. Jalgaon in Sessions Case No.243 of 2013 vide Judgment and Order dated 08.11.2022 for the offence punishable under Sections 302 and 307 r/w. Section 34 of the Indian Penal Code, is suspended during pendency of the Appeal.
- (iii) Applicant be released on bail on furnishing P. R. Bond of Rs.1,00,000/- (Rupees One Lakh Only) with one surety or two sureties in the like amount.
- (iv) Bail before the Trial Court.

7. Criminal Application stands disposed of accordingly.

(NEERAJ P. DHOTE, J.)

(R. G. AVACHAT, J.)

GGP