



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4982 OF 2024
IN
CRIMINAL APPEAL NO. 1071 OF 2024

Santosh S/o. Suresh Rathod,
Age : 34 Years, Occu. : Agriculture/Driving,
R/o. Chouki Mahakaay, Tq. Kandhar,
Dist. Nanded.

... Applicant
(Orig. Accused)

Versus

The State of Maharashtra
Through Police Station Kandhar,
Tq. Kandhar, Dist. Nanded.

... Respondent

.....
Mr. Sudhir K. Chavan, Advocate for the Applicant.
Mr. S.M. Ganachari, APP for Respondent.

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CORAM : ABHAY S. WAGHWASE, J.

Date : 18.12.2024

ORDER :

1. In instant application, there is prayer of suspension of sentence and grant of bail, on account of conviction recorded by learned Additional Sessions Judge-2, Kandhar, Dist. Nanded, in Sessions Case No.70/2019, Dated 29.11.2024, for offence punishable under Section 353 of the Indian Penal Code (hereinafter shortly referred to as "IPC").

2. Learned counsel for the applicant pointed out that, applicant was tried by learned Additional Sessions Judge-2, Kandhar, in Sessions Case No.70/2019, on the premise that complainant in question was obstructed and he beat driver who was behind the wheels of MSRTC bus. That, learned trial court accepted the prosecution case and recorded conviction vide order dated 29.11.2024 and sentenced the present applicant to suffer three months imprisonment and to pay fine. That, fine amount is already paid. The applicant was on bail during trial. He has questioned the judgment passed by learned additional sessions Judge. Same is pending and moreover, it being of the year 2024, will take long time to be heard. Hence, prayers for suspension of sentence and grant of bail.

3. Learned APP for the State strongly opposed the present application on the ground that, when the bus in motion, incidence has taken place. There are clear allegations of thrashing to the bus driver, who was behind the wheels and as such, offence is squarely proved. For said reasons, he prays to refuse the reliefs.

4. Heard. Perused the papers. It seems that, applicant was charge-sheeted by Loha Police Station for offence punishable under

Sections 353, 332, 504, 506 of the Indian Penal Code. The trial was conducted which culminated into conviction, by order dated 29.11.2024. Operative part shows that, learned trial court sentenced the present applicant to suffer three months imprisonment for commission of offence under Section 353 of the IPC and to pay fine and he is acquitted from rest of the charges. Fine amount is paid. Statement is made across the bar that, applicant was on bail during trial. Admittedly, appeal preferred against the conviction is of the year 2024 and as there are no immediate prospects of hearing the appeal, relief as prayed deserves to be granted. Hence, I proceed to pass following order.

ORDER

- i) Criminal Application No.4982/2024 is allowed.
- ii) The substantive sentence imposed on applicant Santosh S/o. Suresh Rathod, by learned Additional Sessions Judge-2, Kandhar in Sessions Case No.70/2019 on 29.11.2024, stands suspended till final hearing and disposal of Criminal Appeal No.1071/2024.
- iii) The applicant be released on P.R. Bond of Rs.15,000/- (Rupees Fifteen Thousand Only) with one solvent surety 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 bail granted to the applicant.
- vii) Bail before the trial court.
- viii) Parties to act on authenticated copy.

[ABHAY S. WAGHWASE, J.]