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

**920 CRIMINAL APPLICATION NO.4564 OF 2023
IN
CRIMINAL APPEAL NO.1183 OF 2023**

Shakir Shabbir Pathan, **...APPLICANT**
Age-25 years, Occu-Labour,
R/o. Balaji Nagar, Near Aqsa Masjid,
Jalna, Tq. And Dist. Jalna

VERSUS

1. State of Maharashtra **...RESPONDENTS**
2. Laxman Bhagwan Jagdhane,
Age-39 years, Occu-Labour
R/o. Balaji Nagar, Near Aqsa Masjid,
Jalna, Tq. And Dist. Jalna

Mr. R. V. Gore, Advocate for the applicant
Mr. N. D. Batule, APP for the respondents/State
Mr. V. B. Garud, Advocate for the respondent (appointed through
Legal Aid)

CORAM : ABHAY S. WAGHWASE, J.

DATE : 14th FEBRUARY, 2024

P. C.

1. This is an application for suspension of sentence and
grant of bail on account of conviction passed by the learned
Special Judge, Jalna in Special Case No.171 of 2022 dated 01-

12-2023.

2. Learned advocate for the applicant in support of relief submits that there is false implication. Evidence of prosecution was weak and fragile. Material is inconsistent and contradictions has not been considered by the trial court. Even answers given by the prosecution witnesses are not appreciated and conviction has been recorded for the provisions of Atrocities Act and the IPC. It is pointed out that for the offences of Atrocities conviction is for one month and to pay fine and for the offences of IPC conviction is for three months and to pay fine. Learned advocate for the applicant submits that appeal has been preferred and there is a good case on merits. However, the appeal is being filed recently, it would take long time to be heard and decided the appeal, Hence, he prays for above relief of suspension of sentence as well as grant of bail during pendency of the appeal.

3. Learned APP opposes the appeal submitting that

there is serious offence against the applicant. Injury certificate supports the assault. Therefore, he prays to refuse the relief.

4. After going through the impugned judgment and record it seems that present applicant was charge-sheeted by Sadar Bazar Police Station, Jalna for the offences punishable under Sections 324, 504, 506 of the Indian Penal Code and Sections 3(2)(va), 3(1)(r)(s) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities Act, 1989). After going through the judgment it seems that learned trial court has accepted the case of prosecution regarding offence under IPC as well as Atrocities Act. Operative part shows that conviction is awarded for one month and three months respectively for each of the offences. Apparently, appeal is preferred and same would take long time to be heard. Considering the quantum of sentence, nature of allegations, the relief as prayed for deserves to be granted.

ORDER

- (i) Criminal application stands allowed.

(ii) The substantive sentence imposed on the applicant Shakir Shabbir Pathan in Atr. Special Case No. 171/2022 by the learned Special Judge, Jalna on 01-12-2023 stands suspended till the final hearing and disposal of the Criminal Appeal No. 1183/2023.

(iii) The applicant be released on PR bond of Rs.15,000/- (Rupees 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

(5)

920criapln4564.23

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.]

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