

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.52 OF 2024

WITH

INTERIM APPLICATION NO.335 OF 2024

IN

CRIMINAL REVISION APPLICATION NO.52 OF 2024

Sunny @ Suraj Ramchandra Awale .. Applicant

v/s.

State of Maharashtra .. Respondent

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Ms. Saisha Pisal, a/w. Ms. Kshema, Mahuli and Mr. J. Patil, i/b. Mr. Vaibhav Gaikwad, for the Applicant.

Mr. Arfan Sait, APP, for State.

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CORAM: PRAKASH D. NAIK, J.

DATE : 25th JANUARY, 2024.

P.C:-

Admit. Call for record and proceedings.

Interim Application No.335 of 2024

1. This is an application for suspension of sentence and grant of bail during the pendency of Criminal Revision Application No.52 of 2024.

2. The Applicant is convicted vide Judgment and Order dated 7th July 2018 passed by learned Judicial Magistrate, First Class, Court No.2, Vaduj in Regular Criminal Case No.112 of 2016 for offence punishable under Section 324 of Indian Penal Code and sentenced to suffer imprisonment for one year. Along with the Applicant, accused no.1 was also convicted for the said offence. The Applicant was convicted for the offences punishable under Sections 324, 323, 504, 506 R/W. 34 of Indian Penal Code. The judgment of conviction was challenged by the Applicant before the Court of Sessions by preferring an appeal, viz. Criminal Appeal No.19 of 2019 viz. Judgment and order dated 3rd January, 2024 passed by learned Additional Sessions Judge, Vaduj. The appeal was partly allowed. Accused no.1 was acquitted. Accused no.2 (applicant) was convicted for the offence punishable under Section 324 of the Indian Penal Code and his sentence was modified and was reduced to six months. The Applicant was taken into custody on the same day.

3. Learned Advocate for the Applicant submitted that the case of the prosecution suffers from serious infirmities. There are no independent witnesses. The case is based on the evidence of the complainant and the interested witnesses, who are relatives of the complainant. The incident had occurred at a spur of moment. The Applicant is a student. The Applicant was on bail during the trial and during the pendency of appeal. The Applicant is in custody from April

2024. The sentence is of short term.

4. Learned APP submitted that there are concurrent findings in the case. The appellate court has reduced the sentence to six months.

5. The revision application preferred by the Applicant has been admitted. The sentence of imprisonment is of short term. The Applicant seems to be aged 19 years at the time of the incident. The Applicant was a student. The incident apparently occurred at the spur of moment. Considering the circumstances, the sentence of imprisonment can be suspended and bail can be granted to him.

ORDER

- (i) Interim Application No.335 of 2024 is allowed;
- (ii) During the pendency of Revision Application No.52 of 2024, the substantive sentence of imprisonment imposed vide Judgment and Order dated 7th July 2018 in Regular Criminal Case No.112 of 2016 passed by learned J.M.F.C., Vaduj, and modified by Judgment and Order dated 3rd January 2024 in Criminal Appeal No.19 of 2018 passed by learned Additional Sessions Judge, Vaduj is suspended and

the Applicant is directed to be released on bail on executing a P.R. Bond in the sum of Rs.20,000/- (Rupees Twenty Thousand) with one or more sureties in the like amount;

- (iii) The Applicant is permitted to furnish cash bail in the sum of Rs.20,000/- for a period of six weeks in lieu of surety.;
- (iv) The Applicant shall attend the concerned Police Station once in three months on first Saturday of the month between 11.00 a.m. to 1.00 p.m.
- (v) Interim Application stands disposed off.

(PRAKASH D. NAIK, J.)