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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO.1180 OF 2024
IN
CRIMINAL APPEAL NO.309 OF 2024**

Mahibub @ Daula Ismail Nalband ..Applicant
Versus
The State of Maharashtra & Ors. ..Respondents

Mr. Jaydeep D. Mane, for the Applicant.
Mr. B. V. Holambe Patil, APP for the Respondent/State.
Mr. V. D. Jadhav, PSI, Jail Road Police Station, Solapur.

CORAM : KISHORE C. SANT, J.

DATE : 3rd APRIL, 2024

PC.

1. Heard learned advocate for the Applicant, who has filed Application seeking suspension of sentence and release of the Applicant on bail.

2. Applicant is convicted by the learned Additional Sessions Judge, Solapur by judgment and order dated 07.02.2024 in Sessions Case No.279 of 2019. Applicant is held guilty for the offences punishable under Sections 143, 147, 148, 307, 323, 506 r/w 149 of IPC. Other accused are already released on bail by this Court. The maximum sentence awarded is 7 years and to pay fine of Rs.1000/-, in default to undergo imprisonment of one month.

3. It is mainly argued by learned advocate for the Applicant that from the injuries on the person of the injured, it is seen that Jainuddin Shaikh, Salauddin Shaikh, Imran Hawaldar, Anwar Jakler and Mumtaj Shaikh have received simple injury. No deadly weapon is used. The incident alleged has taken place after the meeting of the persons from the community. There is no premeditation. Though the said meeting is attended by above 50 members, still not a single independent witness is examined. The witnesses who are examined either are injured witnesses or interested witnesses. He further submits that there is already previous dispute pending between the parties. The Court itself in the judgment has observed that there was no intention to kill and still the Applicant is held guilty for the offence under Section 307 of IPC.

4. Learned APP from reading of the evidence of the witnesses submits that at least three witnesses have deposed against the present Applicant stating that he was uttering the words like finishing the injured witnesses, this clearly shows the intention of the parties and prays for rejection of the Application.

5. Learned APP submits that there are three earlier cases filed against the present Applicant, one is even for the offence punishable under Section 307 and 323 of IPC. On this, learned advocate for the Applicant submits on instructions that all the cases have ended in acquittal. Learned APP also admits this fact.

6. On going through the evidence, this Court finds that incident is proved with the help of evidence, however, from the nature of the weapon and injuries caused, it *prima-facie* appears that this is not a case under Section 307 of IPC. The fine amount is already paid. Applicant was on bail during the trial. This Court thus finds that it would be in the interest of justice to allow the Application. Hence, the following order :-

- i) The Application stands allowed.
- ii) The sentence awarded by learned Additional Sessions Judge, Solapur dated 07.02.2024 in Sessions Case No.279 of 2019 stands suspended.
- iii) Applicant shall be released on bail on furnishing PR bond and one solvent surety in the sum of Rs.15,000/-.
- iv) Applicant shall attend concerned Police Station as and when required.
- v) Applicant shall furnish contact details including his mobile number to the concerned Police Station. If there is any change in contact details as mentioned above, Applicant shall immediately inform to the concerned Police Station.
- vi) Applicant shall not contact the victim and any other witnesses.

7. The Application stands disposed of.

[KISHORE C. SANT, J.]