

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO.1638 OF 2024
IN
CRIMINAL APPEAL NO.412 OF 2024**

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Sunil @ Balu Shripati Dalavi ..Applicant
Versus
The State of Maharashtra & Anr. ..Respondents

Ms. Srushti S. Chalke i/by Drupad S. Patil, for the Applicant.
Mr. Swapnil V. Walve, APP for the Respondent/State.

CORAM : SARANG V. KOTWAL, J.

DATE : 9th JULY, 2024

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1. This is an application for bail pending Appeal. The Applicant was convicted vide judgment and order dated 14th March, 2024 by the Additional Sessions Judge, Kolhapur in Sessions Case No.19 of 2019 under Section 307 of IPC. The Applicant was sentenced to suffer rigorous imprisonment for three years and to pay fine of Rs.5000/- and in default to suffer simple imprisonment for one month. He was also convicted under Section 323 of IPC and was sentenced to suffer rigorous imprisonment for one year and to pay fine of Rs.5000/-. The Applicant was further convicted under Section 504 of IPC and sentenced to pay fine of Rs.5000/-. After his conviction, the Applicant was granted bail under Section 389 of CrPC by the Trial Court. The previous orders show that the Respondent No.2 was made a party and notice was issued to him. The office noting shows that the notice is served. However, the

Respondent No.2 has not made any arrangement to represent himself in these proceedings.

2. Therefore, I have heard learned counsel for the Applicant as well as the learned APP.

3. The prosecution case is that the informant/PW-1 was knowing the Applicant. The incident occurred on 16th September, 2018. PW-1 was cutting grass in his field. The Applicant was also cutting grass nearby. There was a quarrel. In that quarrel, the Applicant assaulted PW-1 on his stomach, shoulder and hand with a sickle. One Rajaram Dalavi intervened the quarrel and separated them. Thereafter, C.R. No.114 of 2018 was lodged at Panhala Police Station under Sections 307, 323 and 504 of IPC.

4. Learned counsel for the Applicant submitted that the Applicant was on bail during trial. The sentence imposed upon him is only three years. The incident has occurred on the spur of moment. There was no premeditation. Both the injured and the Applicant were cutting grass and therefore they were already having sickles in their hands. According to him, the offence under Section 307 of IPC is not made out, instead a lesser offence is perhaps alleged against the Applicant. Even otherwise, there is strong possibility of false implication.

5. Learned APP submitted that the offence is serious and the injuries are serious.

6. I have considered the submissions.

7. The evidence of Medical Officer/PW-8 shows that there were five injuries. Two injuries were on the stomach. The injuries appear to be serious, but in facts of the case, considering that the incident occurred in the spur of the moment in sudden quarrel, it will have to be examined whether the offence under Section 307 of IPC is made out and as to whether Applicant could have caused more serious injuries since he had the opportunity. Therefore, it has to be examined whether the offence under Section 307 of IPC is made out and as to whether the Applicant had the requisite intention. All these issues will have to be decided at the final hearing of the matter. However, the sentence is short and the Appeal is not likely to be decided within that short period.

8. Considering all these aspects, the Applicant can be released on bail pending the Appeal. Hence, I pass the following order :-

- i) During pendency and final disposal of the Criminal Appeal No.412 of 2024 preferred by the Applicant, he is directed to be released on bail on his executing PR bond in sum of Rs.30,000/- with one or two sureties in the like amount.

9. The Application is disposed of.

(SARANG V. KOTWAL, J.)