

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.3728 OF 2024
IN
CRIMINAL APPEAL NO.1006 OF 2024

Prakash Giraju Mhetar Applicant

V/s.

State Of Maharashtra Respondent

NILAM
SANTOSH
KAMBLE

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Mr.Anand S. Patil, for the Applicant.

Mr.S.D. Shinde, APP, for Respondent-State.

CORAM : SHIVKUMAR DIGE, J.

DATE : 22nd OCTOBER 2024

P.C:-

. By this Application, the Applicant No.1 is seeking suspension of sentence and grant of bail. The learned counsel for Applicant's submit that Applicant No.2 has completed sentence and has been released by Jail Authority.

2. The Applicant No.1 has been convicted under Section 304-II of the Indian Penal Code and sentenced to suffer RI for 10 years and to pay fine of Rs.3,000/- in default to suffer SI for three months.

3. The Applicant No.1 also convicted for the offence punishable under Section 324 of the IPC and sentenced to suffer RI for six months to pay fine of Rs.1,000/- in default to suffer SI for one month.

4. The prosecution case is that, there was quarrel between the Applicant No.1, co-accused and first informant on 19th February 2018. It is alleged that, the Applicant No.1 and co-accused assaulted the Informant, when Informant's relatives came to know about said assault they decided to settle the matter and they went to house of the Appellant's to settle the matter. It is alleged that, when Informant and his relatives came to the house of the Applicant No.1 and co-accused they assaulted informant and his relatives with sword and knife. It is alleged that, the Applicant No.1 has assaulted the informant with sword on his head and son of Applicant No.1 stabbed on the chest of the deceased Sakharam Gaonkar. On the complaint offence under Section 302 and relevant Sections was registered against the Applicant No.1 and co-accused. After trial Applicant and co-accused convicted as referred above. One co-accused has been

acquitted.

5. It is contention of the learned counsel for the Applicant that, the Applicant has been falsely implicated in this case there was scuffle between two groups. The Applicant has suffered grievous injuries in the said scuffle. The First Informant and his relative assaulted the Applicant and their relatives. The learned Sessions Judge has observed in his judgment but has convicted the Applicant under Section 304(ii) of IPC which is erroneous. The learned counsel further submitted that, the Applicant is behind bar more than six years and eight months out of 10 years imprisonment. He is Karta of his family. The co-accused has completed his sentence, due to completion of the sentence he has been released by the jail authority. It may take time to dispose of the Appeal. Hence, requested to allow the Application.

6. The learned APP strongly objected to allow the Application on the ground that the Applicant and co-accused murdered one Sakharam Gaonkar. The Applicant had caught hold Sakharam whereas co-accused knifed on his chest. The

prosecution has proved case against the Applicant beyond reasonable doubt. If the Applicant released on bail, he may abscond. Hence, requested to reject the Application.

7. I have heard all learned counsel. Perused impugned judgment and order and evidence produced on record.

8. It appears from record that, cross complaints were filed by Applicant and First Informant against each other. The Applicant is behind bar for more than 6 years and 8 months out of 10 years imprisonment. Co-accused has been released from jail due to completion of the sentence imposed on him. The Applicant is Karta of his family. It may take time to dispose of the Appeal. Considering these facts, I am inclined to allow this Application and I pass following order.

ORDER

(i) The Applicant-Prakash Giraju Mhetar, be enlarged on bail in Crime No.12 of 2018 registered with Gaganbavada Police Station, District-Kolhapur on furnishing PR bond of Rs.25,000/- with one or two sureties in the like amount.

(ii) The Application is allowed in the aforesaid terms and is accordingly disposed of.

(SHIVKUMAR DIGE, J.)