

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

INTERIM APPLICATION NO. 906 OF 2024
IN
CRIMINAL APPEAL NO. 198 OF 2024

Ashok Tukaram Koli

...Applicant

Vs.

The State of Maharashtra & Anr.

... Respondents

Mr. Pratik Tare a/w Mr. Sachin Mane, Advocate for the Applicant.

Mr. B.V. Holambe-Patil, APP for the Respondent-State.

Mr. Kanhaiya Yadav i/by Adv. Anu Kaladharan, Advocate for Respondent No.2.

CORAM : KISHORE C. SANT, J.

DATE : 6th May, 2024

P.C.:-

1. Heard the parties. This application is filed for suspension of sentence and release of the Applicant on bail. By way of Judgment and Order dated 11th January, 2024 passed by the Additional Sessions Judge, Ichalkaranji in Sessions Case No.17 of 2013, the Applicant is convicted for the offences punishable under Section 307 and 504 of the Indian Penal Code (for short 'IPC') and sentenced to suffer four years and fine of Rs.5,000/- in default to undergo rigorous imprisonment for 15 days. The Applicant is directed to suffer sentence for simple imprisonment for three years for the offence under Section 506 of IPC.

2. Learned Advocate for the Applicant submits that from the allegations taken as it is, no case of 307 of IPC is made out. It is the case of a sudden quarrel taken place between the two brothers on account of watering of the field. In that altercation this Applicant assaulted on the head of the injured with shovel. The Respondent No.2 thereby received injuries on his head. The brother of the Accused and the victim had seen the incident. His evidence also shows that there was sudden fight between the brothers. He further submits that the sentence is only of four years and fine amount is already paid. The Applicant was on bail during the trial. It is the case for bail and suspension of sentence.

3. Learned APP and learned Advocate for Respondent No.2, vehemently opposes the application and submits that there is evidence of real brother of the Accused and the victim whose evidence is further corroborated by medical evidence. The Applicant has used a dangerous weapon shows that he had intention to commit murder.

4. After hearing the parties, this Court finds that the incident is of sudden fight between the brothers on account of watering the field. The weapon alleged is shovel, which cannot be said to a dangerous weapon so as to cause injuries to commit murder. It is also seen that there was

common well in the land for watering the field of Accused and victim. Considering the dispute, this Court finds that no *prima facie* case is made out to show intention to commit murder.

5. Even otherwise, the the sentence is a short sentence of four years. The Applicant has already deposited the fine amount during the trial who was on bail. The Appeal is not likely to be heard in near future since the appeals even prior to this appeal are still pending for final hearing. The application is therefore allowed.

ORDER

- i. Interim Application No.906 of 2024 is allowed;
- ii. The sentence awarded by the learned Additional Sessions Judge, Ichalkaranji dated 11th January, 2024 in Session Case No.17 of 2013, stands suspended till further order.
- iii. The Applicant shall be released on bail on furnishing P.R. Bond and solvent surety in the sum of Rs.15,000/-;
- iv. The Applicant shall not contact the victim and shall not create any law and order situation. In case any breach of the condition, Applicant shall be liable to cancellation of bail.
- v. The Applicant shall furnish his contact details including his

mobile number to the concerned Police Station.

vi. The Applicant shall keep informed about any change in above mentioned contact details immediately to the concerned Police Station.

vii. Interim Application stands disposed off.

(KISHORE C. SANT, J.)