

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

INTERIM APPLICATION NO. 1642 OF 2024
IN
CRIMINAL APPEAL NO. 414 OF 2024

Murga @ Altaf Rafiq Shaikh (Sayyad) ...Applicant

Vs.

The State of Maharashtra & Anr. ...Respondents

Mr. Mithilesh Mishra, Advocate for the Applicant.

Mr. A. R. Metkari, APP for the Respondent/State.

CORAM : KISHORE C. SANT, J.

DATE : 6th May, 2024

P.C.:-

1. Heard the parties. This Application is filed seeking suspension of sentence awarded by the learned Additional Sessions Judge, Pune by Judgment and Order dated 16th March, 2014 in Session Case No.434 of 2007. The Applicant is convicted for the offences punishable under Sections 143, 147, 148, 149 and 307 of Indian Penal Code (for short 'IPC') alongwith other Accused persons. They are sentenced to suffer rigorous imprisonment for seven years and to pay fine of Rs.1,00,000/- each, in default of payment to suffer simple imprisonment for six months.

2. Learned Advocate for the Applicant submits that in the entire evidence no specific role is attributed to the present Applicant. The

allegations of use of weapon and assault the victim are against other persons. Though the victim was directed to be added as a party, it is reported that he has expired after the trial.

3. Learned APP vehemently opposes the application stating that specific role is attributed to the present Applicant.

4. The Applicant was in jail from 17th September, 2007 till 28th April, 2008 and again he is taken in custody from 16th March, 2024. Considering the case on merits, *prima facie* this Court finds that there is no material against the present Applicant. It was observed in Paragraph 18 of the Judgment that at the time of incident this Applicant was present and was grazing his goats. In these circumstances, the application deserves to be allowed. Hence, the following Order.

ORDER

- i. Interim Application No.1642 of 2024 is allowed;
- ii. The sentence awarded by the learned Additional Sessions Judge, Pune in Judgment and Order dated 16th March, 2014 in Session Case No.434 of 2007, stands suspended.
- iii. The Applicant shall be released on bail on furnishing P.R. Bond and solvent surety in the sum Rs.15,000/-;

- iv. The Applicant to deposit fine Rs.1,00,000/- as condition precedent.
- v. The Applicant shall give his address and other contact details to the concerned Police Station and appear before the Police Station as and when called for.
- vi. Application stands disposed off.

(KISHORE C. SANT, J.)