

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

**INTERIM APPLICATION NO.2801 OF 2024
IN
CRIMINAL APPEAL NO.684 OF 2024**

Arvind @ Sonu SawantApplicant
Versus
State of MaharashtraRespondent

Mr. Abhishek H. Khare, Advocate (appointed) for the
Applicant.

Smt. Sangita D. Shinde, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 31st JULY, 2024

P.C. :

1. This is an Application for bail pending appeal.
2. The Applicant was convicted by the Additional Sessions Judge, Ratnagiri vide judgment and order dated 28.9.2022 passed in Sessions Case No.22/2020. The Applicant was convicted for the offence punishable under Section 307 of IPC and was sentenced to suffer RI for seven years and to pay fine of Rs.5,000/- and in default to suffer

further RI for six months. He was also convicted for the offence punishable under Section 506 of IPC and was sentenced to pay a fine of Rs.5,000/- and in default to suffer RI for six months.

3. Heard Mr. Abhishek Khare, learned appointed counsel for the Applicant and Smt. Sangita Shinde, learned APP for the Respondent-State.

4. The prosecution case is that one Subodh Sawant was returning home in his village from his work on 28.2.2022. He alighted from the S.T. bus. Two other girls got down with him. He knew those girls. They were walking with Subhodh Sawant (PW-1). At one spot, the Applicant was standing near the Applicant's two-wheeler. There were two other boys with him. PW-1 enquired with the Applicant and two others as to what was going on. A quarrel took place. During that quarrel, the Applicant took a chopper and gave blow on PW-1. It landed on his right index finger causing injury. The Applicant gave one more blow on PW-1's abdomen causing bleeding injuries. The

Applicant went away. The injured was taken to Civil Hospital, Ratnagiri. He gave his statement. It was recorded as FIR and produced on record in the trial at Exhibit-17.

5. Learned counsel for the Applicant submitted that the injury was not a life threatening injury. There was no intention to commit murder. The Applicant is already in custody for two and half years out of seven years imprisonment. He submitted that considering all these aspects, bail be granted to the Applicant.

6. Learned APP opposed these submissions. According to her, since grievous injury was caused with a deadly weapon like chopper, the Applicant may not be released on bail.

7. I have considered these submissions. Apart from the evidence of PW-1 the injured, there is important evidence of the Medical Officer Dr. Chetan Chaudhari, who is examined as PW-6. He has deposed that PW-1 had suffered one stab injury over right side of abdominal anterior wall of

the size 1 x 2 cm. It was a cavity deep injury exposing muscles and peritoneum. The other injury was 2 cm long over right index finger. It was a simple injury.

8. Thus, it can be seen that the Applicant has caused one grievous injury on the abdomen, but, the Applicant had ample opportunity and the weapon with him to cause serious damage to commit murder if he had intention to commit murder. However, at this stage, it appears that the Applicant's intention was to cause grievous injury and, therefore, there is a possibility that the offence may not be the one under Section 307 of IPC and it could be under Section 326 of IPC. This aspect will have to be decided at the time of final hearing stage.

9. However, at this stage there is force in the submission of learned counsel for the Applicant that the offence may not be under Section 307 of IPC. The Applicant is already in custody for two and half years. In this view of the matter, I am inclined to grant bail to the Applicant pending his Appeal. Hence, the following order:

ORDER

- (i) During pendency and final disposal of the Criminal Appeal No.684/2024, the Applicant is directed to be released on bail on his executing a P.R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) Interim Application is disposed of accordingly.

(SARANG V. KOTWAL, J.)

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by
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