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Uday S. Jagtap

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

**INTERIM APPLICATION NO. 862 OF 2024
IN
CRIMINAL APPEAL NO. 260 OF 2024**

Shivanand Shama Bharti .. Applicant

Vs.

The State of Maharashtra .. Respondent

....

Mr. Shailesh Chavan, appointed advocate for the applicant
Mrs. Kranti T. Hiwrale, APP for the respondent – State

....

**CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, J.J.**

DATE : 7th OCTOBER, 2024.

P.C.

1. Heard learned Counsel for the parties.
2. By this application, the applicant seeks suspension of his sentence and enlargement on bail, pending the hearing and final disposal of the aforesaid appeal.
3. The applicant, vide Judgment and Order dated 25th August, 2023, passed by the learned Sessions Judge, Thane in Sessions Case No. 375 of 2017, has been convicted for the

offence punishable under Section 302 of the Indian Penal Code and is sentenced to suffer imprisonment for life and to pay fine of Rs.10,000/-, in default of payment of fine, to suffer RI for six months. The applicant, in addition to the aforesaid offence, has also been convicted for the offence punishable under Section 324 of the IPC and is sentenced to suffer simple imprisonment for for a period of three years and to pay fine of Rs.5,000/-, in default of payment of fine, to suffer simple imprisonment for two months.

4. Perused the papers. The prosecution case essentially rests on the evidence of PW-10 – Babita Bharti, wife of the applicant. PW-10 Babita has witnessed the assault on the deceased Ravindra. According to the PW-10 Babita on 20.03.2017, she alongwith the deceased – Ravindra came to the Mess for preparing food. She has stated that thereafter, the applicant reached there with an axe and gave a blow on the head and back of the deceased – Ravindra, as a result of which, the deceased succumbed to the injuries. PW-10 Babita has further stated that the first informant PW-1 - Munnalal tried to catch the applicant, however, the applicant also gave him a blow with the axe.

PW-10 Babita has stated that soon thereafter, the applicant was apprehended by the people from the spot and handed over to the Police. According to the PW-10 Babita, the applicant assaulted the deceased Ravindra as she was having illicit relations with the deceased.

5. PW-1 Munnalal has corroborated the evidence of PW-10 Babita. PW-1 Munnalal has stated that on 20.03.2017 at about 9.00 to 9.15 p.m. he heard screams from the Mess and that when he came out of the house, he saw the applicant coming out from the said Mess. PW-1 has further stated that the applicant thereafter tried to assault him with an axe, however, as he raised his hand he sustained the axe blow on his right shoulder, resulting in a bleeding injury.

6. Considering the evidence as stated aforesaid, this is not a fit case for suspension of his sentence and enlargement on bail, pending the hearing and final disposal of the aforesaid appeal. Hence, the Interim Application stands rejected.

7. However, liberty is granted to the applicant to file a fresh application in the event his appeal is not heard within one year.

8. The application is disposed of in the aforesaid terms.

(PRITHVIRAJ K. CHAVAN, J.) (REVATI MOHITE DERE, J.)