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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 1864 OF 2024
IN
APPEAL No. 456 of 2024

Sagar Satish Shinde
V/S
State Of Maharashtra

....Applicant
....Respondent

Mr. O. P. Lalwani a/w Ms. Kunda Gaikwad, for the
Applicant/Appellant.

Mr. V. A. Kulkarni, APP for Respondent - State

CORAM : M.M. SATHAYE, J.

DATE : 18th NOVEMBER, 2024

P.C. :

1. Heard learned counsel for the Applicant and learned APP for Respondent/State.
2. The Applicant is accused No.1 who is convicted for offence punishable u/s.397 of Indian Penal Code and is sentenced to suffer rigorous imprisonment for 7 years.
3. This is a second application filed for suspension of remainder of sentence and grant of interim bail. Earlier by order dated 30/09/2020, this Court had rejected the first application.
4. Learned counsel for the Applicant submitted that the Applicant has already suffered detention of 4 years, 5 months and 9 days including remission and other benefits, which is more than 50% of

the sentence awarded. It is submitted and it is an admitted position that during pendency of this application, the Applicant's father has expired about week ago on 10.11.2024 and his family needs him. That is the reason why this application is taken out for urgent hearing.

5. The case of the prosecution is that on 22/08/2013 at about 1.30 a.m. the informant had returned from his sister's house to Pune by railway and wanted to go to Markal. Since he did not get PMT bus, he came out of station and inquired with Accused No.2 rickshaw driver for dropping him at Markal. At that time present Applicant/Accused No.1 was already sitting in the rickshaw, who falsely stated that he is also going to Markal. Therefore, Accused No.2 picked up the Informant and took him to Golf-road when he stopped the rickshaw in front of Bombay Spray Printing Garage at about 1.45 a.m. It is the case that Accused No.2 rickshaw driver then alighted from the rickshaw came on back side and sat down near the Informant, when the Applicant took out a knife and pointed it to the neck of the Informant and threatened him. It is the case that Accused No.2 took out Informant's wallet, two ATM cards, one mobile, and cash of Rs.1080/- and both the Accused threatened the Informant and pushed him out of rickshaw.

6. It is further case that the Informant then looking for help, saw a police jeep coming from Ambedkar Chowk, which was stopped by shouting and the incident was narrated. It is the case that Police took the Informant in the jeep and chased the auto rickshaw of which number was taken down by the Informant. When rickshaw was

spotted at Gunjan Talkies Chowk, Accused Nos.1 & 2 started running and police chased them and caught rickshaw driver Accused No.2. It is the case that present Applicant succeeded in fleeing away.

7. Learned counsel for the Applicant submitted that there is no medical evidence even to suggest use of knife and there is no injury found on the Informant. He submitted that the P.W. No.7 panch witness who has deposed in support of recovery of knife, has turned hostile. Indeed no medical evidence is on record.

8. Learned APP appearing for Respondent/State, on the other hand, opposed grant of interim bail. He submitted that role of the Applicant is clear and there has been antecedent in the form of offence u/s.185 of the Motor Vehicles Act, 1989. He however fairly submits that there are no other antecedents of major offenses against the Appellant.

9. Learned counsel for the Applicant also submitted that the Applicant was on bail during trial. From the report submitted by learned APP dated 18/11/2024, it appears that the Appellant was arrested for short duration for about 15 days in 2013 and for about 8 days in 2017. It is submitted that during the rest of the period till the impugned the order of conviction, the Appellant was on bail. It is not brought to the notice of the Court that liberty was misused by the Applicant during the time he was on bail. No other special circumstances are brought to the notice to the Court to warrant rejection for the bail application.

10. Report also shows that Applicant has already suffered

detention of 4 years, 5 months and 9 days, which is more than half of the sentence. The Appeal is not likely to be taken up for hearing in short time.

11. In these facts and circumstances, I am inclined to grant bail. Hence following order.

i) The interim application is allowed. The remainder of the sentence under impugned order dated 15/05/2019 is suspended for Accused No.1 Sagar Satish Shinde.

ii) The Applicant Sagar Satish Shinde be released on interim bail on execution of PR. Bond of Rs.25,000/- with one or more surety in like amount.

iii) The Applicant is directed to attend the concerned police station on 1st and 3rd Monday of each month until further orders.

iv) The Applicant is also directed to submit his current and as well as permanent address and his Aadhar Card copy and mobile / contact numbers to the concerned police station.

12. Interim application is disposed of in the above terms.

13. All concerned to act on duly authenticated or digitally signed copy of this order.

(M.M. SATHAYE, J.)