

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
INTERIM APPLICATION NO. 3620 OF 2024
IN
CRIMINAL APPEAL NO. 1032 OF 2024

Neelkanth Kangal Mandal

.... Applicant

Versus

The State of Maharashtra

.... Respondent

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Mr. Akshay Chitre a/w Mr. Vikas Somawanshi and Mr. Pandurang Bonder, for the Applicant.

Ms. Swapnil Walve, APP, for the Respondent – State.

CORAM : SHIVKUMAR DIGE, J.

DATE : 23rd OCTOBER, 2024.

P.C. :

1. By this application, Applicant is seeking suspension of sentence and grant of bail in Session Case No.254 of 2022. The applicant has been convicted under Section 398 of Indian Penal Code, 1860 (for short “IPC”) and sentenced to suffer seven years Rigorous Imprisonment.

2. It is prosecution’s case that on 23rd March, 2021 around

9:00 a.m. the Applicant tried to withdraw cash from ATM Machine but, he could not get the cash hence, he went in bank and showed knife to the Bank employee and threatened him and demanded the cash.

3. It is contention of learned counsel for the Applicant that Applicant has been falsely implicated in this case. The offence under Section 398 of IPC would not be attracted against the Applicant. Applicant was asking his own amount from the bank authority but bank staff was not co-operating with him. Applicant is Karta of his family. Out of five years imprisonment, he is behind bar for more than three years and six months. Hence, requested to allow the application.

4. It is contention of learned APP that Applicant went in the bank and showed knife to the first informant and bank staff and was asking for amount. The prosecution has proved a case against the Applicant, accordingly, he has been convicted and requested to reject the application.

5. I have heard both learned counsel. Perused judgment and order and evidence produced on record. Applicant is behind bar for more than three years and six months out of seven years of sentence.

Initially, Applicant attempted to withdraw the cash from ATM Machine but cash was not dispensed hence, he went to the bank and tried to ask the amount but as he did not get the amount, he showed the knife to the staff. Whether act of the Applicant comes under section 398 of IPC or not will be the point for argument at the time of final disposal of the appeal. Applicant is Karta of his family. He has undergone around $\frac{1}{2}$ of the sentence imposed on him. Considering these facts, I am inclined to allow the application.

6. In view of above, the Applicant's sentence is suspended and he is enlarged on bail, pending the hearing and final disposal of the appeal, on the following terms and conditions.

ORDER

- i. The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.

7. The interim application is allowed in the aforesaid terms and is accordingly disposed of.

8. All concerned to act on the authenticated copy of this order.

(SHIVKUMAR DIGE, J.)