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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 3889 OF 2024
IN
CRIMINAL APPEAL NO. 1127 OF 2024

Balu Bapu Pore ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Nitin Gaware Patil A/W Mr. Shantanu Kolhe for the Applicant.

Mrs. Kranti T. Hiwrale, A.P.P for the Respondent-State.

*CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, JJ.*
DATE : 27th NOVEMBER, 2024

P.C. :

1. Heard learned Counsel for the parties.
2. By this interim application, the applicant seeks suspension of his sentence and enlargement on bail, pending the hearing and final disposal of his aforesaid appeal.

3. The applicant, vide Judgment and Order dated 20th July, 2024, passed by the learned Additional Sessions Judge, Baramati, District Pune, in Sessions Case No. 37 of 2016, 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 rigorous imprisonment for 6 months.

4. Perused the papers. The prosecution case essentially rests on the evidence of an eye-witness – Janabai Pore. According to Janabai (PW-8), the incident took place on 5th July, 2015 at about 7.00 a.m. when she alongwith her husband – Namdeo (deceased) had gone to their field. According to Janabai (PW-8), when they were near the field, Pandurang Pore, Mangal Pore and Balu Pore (applicant) came to the spot and were putting branches of babhul and grass on the common embankment. Janabai (PW-8) has further stated that when her husband – Namdeo asked them not to do so, Pandurang hurled

abuses at her husband and even assaulted Janabai with a stick when she asked Pandurang not to hurl abuses. Mangal is also alleged to have hurled abuses at Janabai and the applicant is alleged to have assaulted Namdeo with an axe on his head.

5. Learned Counsel for the applicant submits that it is case of a single injury. He submits that the offence would not be one under Section 302 of the Indian Penal Code, but would be a lesser offence, inasmuch as, the accused left the spot soon after the said blow. He further submits that infact, it is the applicant's brother – Pandurang, who took the deceased – Namdeo, on his motorcycle to the hospital.

6. The applicant is in custody for more than nine years four months. The appeal is of the year 2022 and is not likely to be heard in the immediate near future.

7. Considering what is stated aforesaid, the application is allowed and the applicant's sentence is suspended and he is enlarged on bail, pending the hearing and final disposal of his 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;
- ii) The applicant shall report to the trial Court, once in three months on the day/date specified by the trial Court, till his Appeal is finally disposed of;
- iii) The applicant shall keep the trial Court informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time;
- iv) If there are two consecutive defaults in appearing before the trial Court, the learned Judge shall make a report to the High Court and the prosecution would be at liberty to file an application seeking

cancellation of bail.

8. The Application is allowed in the aforesaid terms and is accordingly disposed of.

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

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.