

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLIATION NO.4030 OF 2024
IN
CRIMINAL APPEAL NO.1098 OF 2024

Islam Aslam Shaikh @ Sonu Bangali ...Applicant

Versus

The State of Maharashtra ...Respondent

Ms. Akshata Borole, i/by Ms. Sugandha K. Zende, for the Applicant.
Ms. Kranti Hivrale, APP for the Respondent-State.

CORAM : SUMAN SHYAM &
SHYAM C. CHANDAK, JJ.
DATED : 5th AUGUST, 2025

P.C. :-

1. Heard Ms. Borole, learned Counsel for the Applicant and Ms. Hivrale, learned APP for the Respondent - State.
2. By the Judgment and Order dated 05.04.2024 passed by the learned Additional Sessions Judge, Mumbai in Sessions Case No.955 of 2021, the sole Applicant herein was convicted for committing offences punishable under Section 307 and 326 of the I.P.C. and awarded major punishment of life imprisonment. He was also directed to pay fine of Rs.3,000/- with default stipulation.
3. Assailing the Judgment and Order dated 05.04.2024, the

Applicant has preferred Criminal Appeal No.1098 of 2024 which has been admitted and the same is pending disposal before this Court. The Applicant is in jail since 05.07.2021. The instant Application has been filed with a prayer to suspend the jail sentence and also to release him on bail.

4. Ms. Akshata Borole, learned Counsel appearing for the Applicant has invited our attention to the evidence on record more particularly the testimony of PW-1 and PW-6 to submit that there was no intention to cause death of the victim in as much as medical evidence also suggest that no blow was given on the vital part of the body of the victim. Under such circumstances, the conviction of the Applicant under Section 307 of the I.P.C. was wholly unwarranted.

5. The learned Counsel for the Applicant has further argued that considering the fact that the Applicant has already suffered incarceration for a period exceeding four years and keeping in mind the facts and circumstances of the case wherein, there is a strong possibility of awarding a reduced jail sentence to the Applicant, he be permitted to go on bail during the pendency of the Appeal. It has also been submitted that the Applicant is the sole bread earner in the family wherein there are dependent family members including his mother and a divorced sister. Therefore, in the interest of justice, the Applicant be allowed to go on bail.

6. Responding to the above submissions, Ms. Hivrale, learned APP, has contended that there is sufficient evidence to establish the involvement

of the Applicant. However, whether it is a case coming within the ambit of Section 307 of the I.P.C., is a matter which can be ascertained only during the final hearing of the Appeal.

7. We have considered the arguments advanced at the bar and have also carefully gone through the materials available on record.

8. From the evidence on record it appears that the injured victim was the landlord in respect of a tenended room occupied by the Applicant. Apparently, there was some dispute between the Applicant and landlord (victim) regarding non-payment of rent.

9. From the testimony of PW-1, we find that the accused/Applicant had struck a blow on the right wrist of the victim leading to its partial amputation. That apart, the accused had also struck a second blow on the left hand of the victim chopping off as many as three fingers. The injured victim PW-1 has deposed that there was an attempt on the part of the accused to strike a blow on his head by the sword. However, from the testimony of PW-6 Dr. Shah, we find that there is no indication of any head injury on the victim. Rather, the medical evidence available on record only mentions about two injuries, one on the right wrist and other on the left hand, out of which, only the injury No.1 had been found to be of a grievous nature. The injury No.2 has, however, been found to be a simple injury.

10. Since there is no evidence of any injury suffered by the victim on the vital part of his body, hence, whether it is indeed a case coming

within the ambit of Section 307 of I.P.C. or not, is a matter that would call for deeper scrutiny of the evidence which will be possible during the final hearing of the Criminal Appeal, which is likely to take some time. Therefore, taking note of the overall facts and circumstances of the case as well as the period of incarceration already undergone by the Applicant and also taking note of the fact that he is the sole earning member of the family, we are of the view that the Applicant has made out a good case for allowing him to go on bail during the pendency of the Appeal. We accordingly allow this Application. Hence, the following Order :-

:: ORDER ::

- (a) The Applicant namely Islam Aslam Shaikh @ Sonu Bangali is directed to be released on bail on furnishing P.R. bond in the sum of Rs.30,000/- with one or two sureties in the like amount.
- (b) The Applicant shall register his attendance before the officer in-charge of the Wadala TT Police Station, Mumbai on the 1st Monday of every month during the pendency of this Appeal.
- (c) The Applicant shall ensure due representation before this Court as and when his Criminal Appeal is listed for hearing.
- (d) The Applicant shall not, leave the jurisdiction of Mumbai district without the permission of the learned Trial Court.
- (e) The Applicant shall not, in any manner, make attempt to intimidate the injured victim (PW-1) or his family members.

11. Before parting with the record, we make it clear that the

observations made herein above are tentative in nature and have been made purely for the limited purpose of disposing of this Interim Application. However, we make it clear that violation of any of the above noted conditions would be viewed seriously and if the Applicant is found disobeying the aforesaid conditions, the prosecution would be at liberty to move this Court for cancellation of the bail.

12. With the above observations, Interim Application stands disposed of.

(SHYAM C. CHANDAK, J.)

(SUMAN SHYAM, J.)