

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO. 1277 OF 2015
IN
CRIMINAL REVISION APPLICATION NO. 41 OF 2015**

SYED FATTU S/O SAYYAD & ORS.

V/S

THE STATE OF MAHARASHTRA

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Mr. A.T.Patel, Advocate for Applicants.

Mr. V.P.Kadam, A.P.P. for Respondent - State.

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CORAM : V.M.DESHPANDE, J.

DATE : 11th MARCH, 2015

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PER COURT :

1. This is an application for suspension of substantive jail sentence and for grant of bail.

2. The present applicants are convicted by the learned Judicial Magistrate First Class, Soygaon by his Judgment and Order dated 18/04/2008 in R.C.C. No. 6/2005 for the offence punishable u/s 420 read with 34 of the Indian Penal Code and directed to suffer Rigorous Imprisonment for three years and to pay fine of ₹ 3,000/- [Rupees Three Thousand], convicted the present applicants for the offence punishable u/s 465 read with 34 of the Indian Penal Code and directed to suffer Simple Imprisonment for two months and also convicted the present applicants for the offence

punishable u/s 468 read with 34 of the Indian Penal Code and directed to suffer Rigorous Imprisonment for three years and to pay fine of ₹ 2,000/- [Rupees Two Thousand] each, in default to suffer Simple Imprisonment for two months. The said Judgment and Order is confirmed by the learned Additional Sessions Judge – 4, Aurangabad by his Judgment and Order dated 05/03/2015 in Criminal Appeal No. 79 of 2008 with Criminal Appeal No. 107 of 2008. The learned counsel for the applicants submitted that from the date of dismissal of the said Appeals, the applicants are in jail.

3. The learned counsel for the applicants submitted that during the pendency of the Criminal Appeal and during the course of time, the applicants were on bail and they have not mis-used the liberty granted to them.

4. Looking to the fact that Suit for specific performance was pending in respect of the disputed property, the conviction is for limited duration and the Revision is also admitted by this Court and as the applicant No. 1 aged about 65 years and applicant No. 2 being lady, the application for bail can favourably be considered.

5. In that view of the matter, I pass the following order :

(1) The present Criminal Application is allowed.

(2) During the pendency of the present Criminal

Revision application, the substantive jail sentence as imposed by the learned Judicial Magistrate First Class, Soygaon by his Judgment and Order dated 18/04/2008 in R.C.C. No. 6/2005 for the offence punishable u/s 420,465, 468 read with 34 of the Indian Penal Code, which is confirmed by the learned Additional Sessions Judge – 4, Aurangabad by his Judgment and Order dated 05/03/2015 in Criminal Appeal No. 79 of 2008 with Criminal Appeal No. 107 of 2008 shall be suspended.

- (3) Applicant No. 1 Syed Fattu S/o Sayyad and applicant No. 2 Rahimabee @ Farida W/o Syed Fattu shall be released on bail on they executing P.R. Bond of ₹ 5,000/- [Rupees Five Thousand] each with one solvent surety in the like amount. Bail before the trial Court.
- (4) The applicants shall remain present before this Court at the time of final hearing of the present Criminal Revision Application.

[V.M.DESHPANDE, J.]