

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2653 OF 2015 IN
CRIMINAL APPEAL NO. 430 OF 2015

Bhavadya @ Somnath Mohan Kamble,
Age - 27 years, Occu - Labourer,
R/o Maharana Pratap Colony, Shirasgaon,
Tal. Shrirampur, Dist. Ahmednagar .. Applicant

Vs.

The State of Maharashtra
Through P.I. City Police Station,
Shrirampur, Dist. Ahmednagar .. Respondent

WITH
CRIMINAL APPLICATION NO. 2654 OF 2015 IN
CRIMINAL APPEAL NO. 431 OF 2015

Sunil Suresh Yadav,
Age : 19 years, R/o Khilari Vasti,
Ward No. 6, Shrirampur,
Dist. Ahmednagar .. Applicant

Vs.

The State of Maharashtra
Through P.I. City Police Station,
Shrirampur, Dist. Ahmednagar .. Respondent

AND
CRIMINAL APPLICATION NO. 3231 OF 2015 IN
CRIMINAL APPEAL NO. 451 OF 2015

Sachin S/o Dilip Dodkar,
Age : 24 years, Occu. Nil,
R/o. Davkhar Road, Ward No.6,
Shrirampur, Dist. Ahmednagar .. Applicant
(Orig. Accused
No.2)

Vs.

The State of Maharashtra
Through Police Station Officer,
City Police Station,
Shrirampur, Dist. Ahmednagar .. Respondent

Mr. K.B. Autade, Advocate for applicant (2653/2015 and
2654/2015)
Mr. N.V. Gaware, Advocate for applicant (3231/2015)
Mr. U.S. Mote, A.P.P. for the respondent-State

CORAM : M.T. JOSHI, J.

DATE : 25/08/2015

ORAL ORDER :

Heard all sides.

2. Aggrieved by the recording of conviction of the present applicants/appellants by the learned Additional Sessions Judge, Shrirampur vide judgment and order dated 20/04/2015 passed in Sessions Case No. 35 of 2014, for the offences punishable under section 304 Part II r/w. 34 of the Indian Penal Code and sentencing each of the applicants/appellants to suffer rigorous imprisonment for 5 years and to pay fine of Rs.10000/-, in default to suffer rigorous imprisonment for 6 months each, present three applicants have filed these applications for suspension of the substantive sentences during the pendency of the appeals and for their release on bail.

3. Upon hearing, learned counsel for the applicant in Criminal Application no. 2653 of 2015, on

instructions, submits that the applicant does not wish to press the application, however, as and when the private paperbook may be supplied, direction for expedited hearing of Criminal Appeal no. 430 of 2015 may be given in his case.

4. Learned counsel for the applicants in Criminal Application Nos. 2654 of 2015 and 3231 of 2015 submit that the FIR and the subsequent statement as well as statement of the very complainant are totally contradictory. Names of the present applicants do not figure in the F.I.R., though the brother of the deceased had claimed in the FIR that the deceased has named the other persons on his deathbed when he was in hospital.

. Learned counsel for the applicants further pointed out various contradictions in the statements, in naming of the various accused and, thereafter, even the accused persons named in the FIR, as the assailants being absolved upon filing of closure report by the Police under section 169 of the Code of Criminal Procedure.

5. Learned A.P.P. however opposed the

applications. He submits that the eye witnesses have consistently deposed about the roles played by the present applicants.

6. Upon hearing all the sides and without making any comment on the merit of the cases, in the light of the record as discussed above, in my view, the substantive sentences of the applicants/appellants in Criminal Application No. 2654 of 2015 and Criminal Application No. 3231 of 2015 needs to be suspended and they deserve to be released on bail. In the result, the following order:-

7. Criminal Application No. 2653 of 2015 is allowed to be withdrawn and stands disposed of as such. Upon presentation of the private paperbook, Criminal Appeal no. 430 of 2015 may be circulated for early hearing.

8. The substantive sentences of applicants/appellants in Criminal Application no. 2654 of 2015 and Criminal Application No. 3231 of 2015 are hereby suspended. Upon deposit of fine amount by these applicants/appellants, if not already deposited earlier,

these applicants be released on bail, upon their execution of P.R. bond in the sum of Rs.20000/- (Rs. Twenty Thousand) each and also upon furnishing surety each in the like amount.

9. Hamdast granted.

10. All Criminal Applications accordingly stand disposed of.

[M.T. JOSHI]
JUDGE

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