

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.4440 OF 2015
IN
CRIMINAL APPEAL NO.657 OF 2015

- 1] Laxmi w/o. Baburao Shahane,
age 53 years, occ. Household,
r/o. Rajendra Peth Galli,
Gangakhed, Dist.Parbhani
- 2] Balu @ Dnyaneshwar Baburao
Shahane,
age 25 years, occ.service,
r/o. as above,
- 3] Pappu @ Amol Baburao Shahane,
age 23 years, occ.Labourer,
r/o. as above
(At present in jail) ..Applicants

Versus

The State of Maharashtra
Through Police Station Officer,
Gangakhed Police Station,
Taluka Gangakhed, Dist.Parbhani ..Respondent

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Mr.Swapnil Rathi, advocate for applicants

Mr.V.P.Kadam, APP for respondent - State

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CORAM : M.T. JOSHI, J.
DATE : AUGUST 24, 2015

PER COURT :

Heard both sides.

2] Present applicants/appellants, who are convicted by learned Addl. Sessions Judge, Gangakhed, Dist.Parbhani in Sessions Case No.40 of 2013 for the offences punishable under Section 323 and 304 Part II of Indian Penal Code and sentenced to suffer rigorous imprisonment for one month and to pay a fine of Rs.1,000/- and to suffer rigorous imprisonment for five years and to pay fine of Rs.3000/-, respectively, on each count, are praying for suspension of sentence and their release on bail.

3] The impugned judgment would reveal that initially, a non-cognizable case was registered on the basis of the complaint dated 5th August, 2012 as a quarrel had taken place between the deceased and present applicants. Thereafter, on

14th August, 2012, the deceased died and hence, a fresh FIR was filed on 15th August, 2015 by the husband of deceased.

4] On the body of the deceased, the Medical Officer found bluish irregular contusion admeasuring 3 x 3 c.m. on left side of posterior aspect of head; and internally, there was hemorrhage of left cerebral hemisphere.

5] Considering the short term sentences awarded by learned Addl. Sessions Judge and in the nature of the allegations, that while two of the applicants had caught hold the deceased and third applicant had banged her head to a wall, in my view, the substantive sentences can be suspended and the applicants can be released on bail, during pendency of the appeal. Learned counsel for the applicant submits that the fine amount has already been deposited by the applicants.

6] Hence, the following order :-

A] During pendency of the appeal, the substantive sentences awarded by learned Addl. Sessions Judge, are hereby suspended. The applicants/appellants be released on bail upon their executing P.R. Bond in the sum of Rs.20,000/- (Rs.Twenty Thousand) each and also upon furnishing surety each in the like amount.

B] The application is allowed and disposed of accordingly.

[M.T. JOSHI, J.]

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2] **Admit.** Learned A.P.P. waives notice for the respondent upon admission.

3] Printing of the paper book is dispensed with.

[M.T. JOSHI, J.]

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