

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

**CRIMINAL APPLICATION NO.55 OF 2015
IN
CRIMINAL APPEAL NO.61 OF 2015**

Parshuram @ Parmeshwar Yallappa Sonkamable... **Applicant**
V/s.

The State of Maharashtra ... **Respondent**

**WITH
CRIMINAL APPLICATION NO.56 OF 2015
IN
CRIMINAL APPEAL NO.62 OF 2015**

Pamu @ Pramod Yallappa Sonkamable ... **Applicant**
V/s.

The State of Maharashtra ... **Respondent**

.....

Mr.V. V. Purwant i/b. V. V. Phatate, Advocate for the Applicants in both the Applications.

Mrs.M. R. Tidke, APP for the Respondent/State.

....

CORAM : ABHAY M. THIPSAY J.

DATED : 3RD FEBRUARY, 2015

P.C.

1. Both these applications, though filed in separate appeals, can be disposed of conveniently by this common order, as the applicants/appellants were prosecuted and convicted in one

and the same case. The separate appeals filed by them have already been admitted. By the present applications, the applicants pray that the substantive sentence imposed upon them by the learned Sessions Judge, Solapur be suspended and they be released on bail pending the hearing and disposal of their appeals.

2. I have heard Mr.Purwant, the learned counsel for the applicants and Mrs.Tidke, the learned Additional Public Prosecutor for the respondent/State. I have gone through the impugned judgment and also the notes of evidence recorded during the trial, copies of which are annexed to the applications.

3. The learned counsel for the applicants submitted that as per the prosecution case itself, the deceased and the applicants were friends. A quarrel took place between them over a petty matter. He submitted that there was no pre-mediated attack. He also pointed out to me that admittedly, no weapons were used in the incident and that, the deceased was allegedly assaulted by fists and kicks. He submitted that the applicants were on bail during the trial. He also submitted that the applicants cannot be attributed with the requisite mens rea or with the knowledge that death of Maruti would be caused by the assault, that actually took place.

4. I have carefully considered the matter.

5. That no weapons were used in the alleged incident, is undisputed. The notes of the Postmortem Examination show that no external injuries were noticed on the dead body. The Doctor performing the Postmortem Examination was unable to opine as to the cause of death and the opinion in that regard was reserved. Later on, the opinion as to the cause of death was given as 'blunt trauma to chest'.

6. I have gone through the evidence of the First Informant-Shivappa, the second witness-Chandu, the third witness-Pintu and the fourth witness-Harun.

7. What offences, the applicants or any of them can be said to have been committed, would need serious consideration during the trial.

8. Mr.Purwant submits that the applicants were already in custody for some time, till they were released on bail, during the trial. He also submits that the applicants are in custody, after their conviction, that is, for a period of about one and half months. He submits that the applicants have remained in custody for a period of about six months.

9. Arguable points, which need serious consideration, have been raised. In the ordinary course, the appeals cannot be heard

expeditiously. It is nobody's case that the applicants had abused the liberty granted to them during the trial.

10. In the circumstances, I am inclined to allow the applications.

Operative Order in Criminal Application 55 of 2015

- I) The application is allowed.
- II) Pending the hearing and final disposal of the appeal, the substantive sentence imposed upon the applicant shall stand suspended; and the applicant shall be released on bail in the sum of Rs.50,000/- with one surety in the like amount, or two sureties in the sum of Rs.25,000/- each, on the condition that the applicant shall report to the trial Court on the first and third Monday of each calendar month, till the final disposal of the appeal.

Should the Court be closed on any given Monday on account of a holiday, the applicant shall report to the trial Court on the next working day.

Operative Order in Criminal Application 56 of 2015

- I) The application is allowed.

- II) Pending the hearing and final disposal of the appeal, the substantive sentence imposed upon the applicant shall stand suspended; and the applicant shall be released on bail in the sum of Rs.50,000/- with one surety in the like amount, or two sureties in the sum of Rs.25,000/- each, on the condition that the applicant shall report to the trial Court on the first and third Monday of each calendar month, till the final disposal of the appeal.

Should the Court be closed on any given Monday on account of a holiday, the applicant shall report to the trial Court on the next working day.

(ABHAY M. THIPSAY J.)