

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.138 OF 2015

IN

CRIMINAL APPEAL NO.1264 OF 2012

1) SADIK MAHAMMED SHAIKH)
2) IMMU @ IMRAN SATTAR MEHBOOB)
SHAIKH)...APPLICANTS

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Debajyoti Talukdar, Advocate for the Applicants.

Mr.Deepak Thakre, APP for the Respondent - State.

CORAM : ABHAY M. THIPSAY, J.

DATE : 17th FEBRUARY, 2015.

P.C. :

1 Heard Mr.Debajyoti Talukdar, the learned counsel for the applicants. Heard Mr.Deepak Thakre, the learned APP for the State.

2 The appeal filed by the applicants and one Munna Ashpaq Sayyed (appellant no.2) has already been admitted. The sentence imposed upon the appellant no.2 – Munna, has been suspended by this court by the order dated 24th November, 2014 (Bail Application No.592 of 2013) (Coram : M.L.Tahaliyani J.).

3 The learned counsel for the applicants / appellants submits that the case of the present applicants is on par with that of the said Munna – appellant no.2. He submits that, as a matter of fact, the said Munna had undergone sentence for about eight months only, whereas, the present applicants have undergone sentence of about 4½ years already. He submits that, considering this, the sentence imposed upon the applicants / appellants also be suspended and they also be released on bail.

4 I have carefully considered the matter. I have gone through the relevant part of the impugned judgment and the evidence of the injured as adduced during the trial. I have also

carefully gone through the order passed by this court releasing the appellant no.2 – Munna on bail. In my opinion, the case of the applicant no.1 – Sadik Shaikh can be treated somewhat differently from the applicant no.2 Immu @ Imran, whose case cannot be treated very differently from that of appellant no.2 - Munna Ashpaq Sayyed, who, as aforesaid, has been released on bail. The applicant no.1 Sadik Shaikh appears to be the main offender and it is he, who is alleged to have given a blow by a sickle to the injured on his head. The learned APP points out that all the weapons of assault have said to have been recovered from applicant no.1. He also appears to be having some criminal background. Considering all the relevant aspects of the matter, I am not inclined to release him on bail, at this stage.

5 The application is partly allowed.

6 The application, so far as it relates to applicant no.1 – Sadik Shaikh, is rejected.

7 The application, so far as it relates to applicant no.2 – Imran Sattar Mehboob Shaikh, is allowed.

8 Pending the hearing and final disposal of the appeal, the substantive sentence imposed upon applicant no.2 shall stand suspended and applicant no.2 shall be released on bail in the sum of Rs.25,000/- with one surety in the like amount, or two sureties in the sum of Rs.12,500/- each.

9 Liberty to applicant no.1 to apply afresh for bail, in the event of the appeal not being heard and disposed of within a period of six months from today.

(ABHAY M. THIPSAY, J.)