

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No.573 OF 2015

IN

CRIMINAL APPEAL NO.518 OF 2015

Manoj Ashok Lohokare and ors .. Applicants

Versus

The State of Maharashtra .. Respondent

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Mr. Aniket Nikam, Advocate for the applicants

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

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CORAM : ABHAY M. THIPSAY, J.

DATED : 5th MAY, 2015

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P.C. :

1 The Appeal filed by the applicants challenging their conviction and the sentences imposed upon them has already been admitted.

2 By the present application, the applicants pray that
the substantive sentences imposed upon them, be suspended
during the pendency of the Appeal and that they be released on
bail.

3 I have heard Mr.Aniket Nikam, learned counsel for the
applicants. I have heard Mrs.M.R. Tidke, learned APP for the
State. I have gone through the relevant parts of the impugned
judgment. I have also glanced through the notes of evidence

recorded during trial, a copy of which is annexed to the Appeal memo.

4 It is submitted that no *mens rea* as would be required to constitute the offence punishable under section 307 of the IPC, can be attributed to any of the applicants. It is also submitted that though the incident has taken place during broad day light in a crowded locality, no independent witnesses were examined. It is also submitted that the only independent witness Mangesh Pable had made a number of improvements in his evidence, when compared with his version in the statement recorded by the police during investigation, and the omissions/contradictions have duly been brought on record. It is also submitted that the applicants were not involved in any criminal case prior to this one, and that, they were on bail during the trial. Contentions have also been raised about the nature of injuries and their seriousness.

5 I have considered the matter.

6 Arguable points needing serious consideration have been raised.

7 In the ordinary course, the Appeal is not likely to be heard within a short time.

8 In my opinion, it would be appropriate to suspend the substantive sentences imposed upon the applicants during the pendency of the Appeal, on imposition of certain conditions.

9 Application is allowed.

10 Pending the hearing and final disposal of the Appeal, the substantive sentences imposed upon the applicants shall stand suspended.

11 The applicants shall be released on bail in the sum of Rs.30,000/- each with one surety in like amount on the condition to report to the trial court on every alternate Monday till the disposal of the Appeal.

12 Should the trial court be closed on any given Monday, the applicants shall report to the trial court on the next working day.

13 Any default on the part of the applicants in reporting to the trial court, as aforesaid, be forthwith be reported by the trial court to this Court for further appropriate action in the matter.

14 Application is allowed in the aforesaid terms.

15 Hearing of the Appeal is ordered to be expedited.

(ABHAY M.THIPSAY, J)