

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 440 OF 2015
IN
CRIMINAL REVISION APPLICATION NO. 504 OF 2015

1 Vilas Jayram Khamgal.	
2 Dhanaji Sambhaji Khamgal	
3 Tulshiram Vitthal Khamgal	
4 Shahaji Maruti Khamgal	
5 Kantilal Bhanudas Khamgal	
6 Ishwar Raghu Khamgal	
7 Soma Sambha Khamgal	
8 Devidas Sambha Khamgal	
9 Vishwanath Dagadu Khamgal	
10 Hanumant Dagadu Khamgal	
11 Shrimant Jayram Khamgal	
12 Balbhim Sambhaji Khamgal	
13 Bharat Vinayak Khamgal.	... Applicants.
Versus	
The State of Maharashtra.	... Respondent.

Mr. Rahul S. Kadam, advocate for Applicants.

Mrs. A. A. Mane, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J
DATE : OCTOBER 29, 2015

P.C.:

1 Not on board. Upon production taken on board.

2 Heard the learned Counsel for the applicants and the learned APP for State.

3 This is an application seeking suspension of substantive sentence imposed upon the applicants. The Applicants herein are convicted in Criminal Case bearing R.T.C. no. 149 of 1994 by the Judicial Magistrate First Class, Indapur vide Judgment and Order dated 25/8/2009 for offence punishable under Section 147, 148, 149, 323 read with section 149 of the Indian Penal Code and are sentenced to suffer R.I. for 6 months each for offence punishable under section 147 of IPC, R.I. for 9 months each for offence punishable under Section 148 of IPC, R.I. for one year each for offence punishable under Section 325 r/w 149 of IPC, R.I. for 3 months each offence punishable under Section 323 r/w. 149 of IPC.

4 Being aggrieved by the said Judgment and Order, the applicant has filed criminal Appeal No. 39 of 2009 before the Sessions Court,

Baramati. The learned Appellate Court vide Judgment and Order dated 27/10/2015 has been pleased to dismiss the appeal and the Judgment and Order dated 25/8/2009 passed by the Judicial Magistrate First Class, Indapur is confirmed.

5 The applicants were present on the date of pronouncement of the Judgment. The applicants are taken into custody and are sent to jail. Hence, this application seeking suspension of substantive sentence.

6 The learned Counsel for the applicants submits that the applicants were on bail during the pendency of the trial as well as during the pendency of the appeal and have not committed breach of any condition imposed upon them. It is further submitted that the sentence imposed upon the applicants is a short term sentence and the revision application is not likely to be heard in the near future.

7 Taking into consideration the facts of the case and the submissions advanced across the bar, this Court is of the opinion that the applicants deserved to be enlarged on bail during the pendency of the revision application.

8 Hence, following order is passed:

ORDER

- (i) The application is allowed.
- (ii) The substantive sentence imposed upon the applicants vide Judgment and Order dated 25/8/2009 by the learned Judicial Magistrate First Class, Indapur in RTC No. 149/1994, confirmed in Criminal Appeal No. 39 of 2009 by the learned Additional Sessions Judge, Baramati vide Judgment and Order dated 27/10/2015 is hereby suspended.
- (iii) The applicant be enlarged on bail subject to the condition that the fine amount is paid before being enlarged on bail. Same bail, fresh bond.

(iv) The applicant shall attend the Court of Judicial Magistrate First Class, Indapur once in six months on the date scheduled by that Court.

(v) In case of failure to attend the said Court on any two consecutive dates, the prosecution shall be at liberty to move for cancellation of bail.

(vi) Parties to act on an authenticated copy of this order.

9 Application stands disposed of.

(SMT. SADHANA S. JADHAV,J)