

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (APPA) NO. 326/2015
IN CRIMINAL APPEAL NO.197/2015

Sanjay Kisan Gourkar & anr..vs.State of Maharashtra thr. PSO P.S.Warora, Chandrapur

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. Y. B. Mandpe, Advocate for applicant.
Mr. R. S. Nayak, A.P.P. for non applicant-State

CORAM : V. M. DESHPANDE, J.
DATE : SEPTEMBER 16, 2015.

This is an application under section 389 of Cr. P. C. for suspension of jail sentence and to release the applicant on bail.

Heard learned counsel for the parties.

The present applicants are husband and wife. They have faced the charge of commission of murder of Deepak, brother of applicant no.1 in Sessions Case No.17/2013.

After full dress trial, learned Additional Sessions Judge, vide impugned judgment and order dated 11.05.2015, acquitted the applicants of the offence punishable under Section 302 of the IPC, however, they were convicted for the offence punishable under Section 304-I read with Section 34 of the IPC. The period of sentence is 5 years as per judgment and order of conviction along with

payment of fine of Rs.2,000/-. From the impugned judgment, it is clear that the present applicants are in jail since 13.12.2012. Thus, they have already undergone considerable period of sentence imposed upon them.

This court has already admitted the appeal on 20.07.2015. Looking to the short duration of sentence imposed upon the applicant and looking to the fact that they have already undergone a period of 2 ½ years, i.e. half of the sentence and there is no possibility of the appeal being taken up in near future, the application can be considered favourably.

In view of above, following order is passed.

ORDER

- (i) Criminal Application No.326/2015 is allowed.
- (ii) The substantive sentence awarded to applicant no.1-Sanjay Kisan Gourkar and applicant no.2-Sau. Pratibha Sanjay Gourkar is suspended.
- (iii) The applicant no.1-Sanjay Kisan Gourkar and applicant no.2-Sau. Pratibha Sanjay Gourkar, be released on bail on they executing P.R. Bond in the sum of Rs.15,000/- each with one surety each in the like amount.

- (iv) Bail before trial Court.
- (v) Before execution of bond, the trial Court shall ensure that the applicants have deposited the entire fine amount.
- (vi) The applicants shall remain present before this court at the time of final hearing of the present appeal.

JUDGE

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