

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.672 OF 2016
IN
CRIMINAL APPEAL NO.47 OF 2016

- 1] Asid Amir Jahagirdar,
Age 41 years, Occ. Labour,
- 2] Shaikh Mansoor Sk. Gani,
Age 50 years, Occ. Labour,
- 3] Sayarabi Sk. Asid Jahagirdar,
Age 40 years, Occ. Housewife,
- 4] Taymunbi Shaikh Mansoor,
Age 47 years, Occ. Housewife,

All applicants nos.1 to 4
r/o. Balanagar, Tq. Paithan,
Dist. Aurangabad

- 5] Sima Sk. Shakir,
Age 27 years, Occ. Housewife,
r/o. Piragapwadi, Tq. Ghansavangi,
Dist. Jalna
- 6] Shaikh Bashir Shaikh Rasid,
Age 60 years, Occ. Driver,
- 7] Maimuna Shaikh Bashir,
Age 55 years, Occ. Housewife,
- 8] Faimunabi Shaikh Ahmed,
Age 49 years, Occ. Housewife,
- 9] Shaikh Ahmed Shaikh Hussain,
Age 53 years, occ. Service.

All applicants 6 to 9
r/o. Baijipura, Aurangabad ..Applicants

Versus

The State of Maharashtra ..Respondent

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Mr.Joydeep Chatterji, advocate for applicants

Mr.N.T.Bhagat, A.P.P. for respondent - State

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CORAM : M.T. JOSHI, J.

DATE : FEBRUARY 09, 2016

PER COURT :

Heard both sides.

2] Aggrieved by the conviction and sentence for the offences punishable under Section 143, 147 and 306, 452, 294, 323, 504, 506 read with Section 149 of Indian Penal Code in Sessions Case No.190 of 2011 by the learned Assistant Sessions Judge-2, Aurangabad, present nine applicants/appellants have preferred an appeal and by way of present application, they seek suspension of the substantive sentences and their release on bail, during pendency of the appeal.

3] The applicants/appellants were sentenced to suffer simple imprisonment for eight years for the offence punishable under Section 306 read with Section 149 of Indian Penal Code. They were sentenced to suffer rigorous imprisonment for seven years for the offence punishable under Section 506 read with Section 149 of Indian Penal Code. They were further sentenced to suffer rigorous imprisonment for five years for the offence punishable under Section 452 read with 149 of Indian Penal Code. Rest of the sentences are relatively lesser. All the sentences were directed to run concurrently.

4] The evidence on record would show that aggrieved of the alleged rape committed with 2½ years old daughter of the applicant nos.1 and 3 by Mannan, son of deceased Tayyab Shaikh, all the present applicants had barged in the house of deceased Tayyab. Said son Mannan ran away from the

spot. Therefore, all the applicants fled away. However, on the next day, they again came at the house of deceased Tayyab and started raising quarrel with the inmates. They also beat Mannan and started pushing and pulling the family members of deceased. In the circumstances, certain threats of bringing kerosene and burning the house of deceased were made. Ultimately, due to the said incident, Tayyab consumed poison and committed suicide. Therefore, the offence came to be registered and present applicants came to be convicted, as detailed supra.

5] Mr.Chatterji, learned counsel for the applicants/appellants took me through the evidence on record, which would show that the crime was already registered against said Mannan i.e. son of deceased Tayyab, for allegedly committing rape on a two and half years old daughter of present applicant/appellant nos.1 and 3 i.e. Asid and

Sayarabi, respectively. He submits that false allegations due the death of Taiyab are made. The applicants were released on bail during pendency of the trial. Fine amount is already deposited. Hence, he submits that the applicants be released on bail by suspending the substantive sentences.

6] Learned A.P.P. opposes the application. He submits that the learned Assistant Sessions Judge has awarded sentence of rigorous imprisonment of eight years for the offence punishable under Section 306 read with 149 of Indian Penal Code besides other sentences, and therefore, the application may be rejected.

7] Upon hearing both the sides, considering the alleged genesis of the incident and finding that the applicants were released on bail during pendency of the trial and that there was no complaint against them of misusing the liberty, in

my view, the applicants can be released on bail by suspending the substantive sentences.

8] Hence, the following order :-

A] The substantive sentences of the present applicants, are hereby suspended, during pendency of the appeal.

B] All the present applicants/appellants be released on bail upon their executing P.R. bond in the sum of Rs.15,000/- (Rs.Fifteen Thousand) each and also upon furnishing surety each in the like amount, during pendency of the appeal. Humdast allowed.

C] The application is allowed and disposed of accordingly.

[M.T. JOSHI, J.]