

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO. 1603 OF 2016
IN
CRIMINAL APPEAL NO. 155 OF 2016**

Pramod Anurath Gaikwad and Another ..APPLICANTS

VERSUS

State of Maharashtra ..RESPONDENT

....
Mr. S.J. Saluke, Advocate for applicants.
Mr. S.D. Ghayal, APP for respondent.
....

**CORAM : INDIRA K. JAIN, J.
DATED : 4th APRIL, 2016**

ORDER :

. This is an application for suspension of substantive sentence of imprisonment passed by the learned Additional Sessions Judge, Majalgaon, District Beed in Sessions Case No. 9 of 2015.

2. Heard Mr. Salunke, learned Counsel for applicants and Mr. Ghayal, learned APP for State. Perused copies of depositions annexed with the application.

3. In all five accused persons were charged for the offences punishable under Sections 452 and 302 read with Section 34 of the

Indian Penal Code. Accused Nos.3 to 5 came to be acquitted. Accused Nos. 1 and 2 were convicted for the offences punishable under Sections 452 and 304(II) read with Section 34 of the Indian Penal Code. Trial Court on appreciation of evidence held that the act attributed to applicants is not a culpable homicide amounting to murder. Sentence imposed on the applicants for the offence punishable under Section 452 read with 34 of the Indian Penal Code is rigorous imprisonment for three years and fine of Rs.1,000/- each with default clause and for the offence punishable under Section 304(II) sentence awarded is rigorous imprisonment for seven years and fine of Rs.1,000/- with default clause.

4. The order of learned Additional Sessions Judge further shows that applicant Pramod is in jail since 08.10.2014 and applicant Madhu is in jail since 06.10.2014.

5. Considering the term of sentence awarded, period of custody already under gone and the nature of offences proved against the accused it would be appropriate to suspend the substantive sentence of imprisonment imposed on applicants. Hence the following order:

ORDER

I) Criminal Application No. 1603 of 2016 is allowed.

- II) Substantive sentence of imprisonment is suspended till disposal of Criminal Appeal No. 155 of 2016.
- III) Applicants are released on bail on P.R. and S.B. of Rs.15,000/- (Rupees Fifteen Thousand Only) each.
- IV) Bail before the Trial Court.

(INDIRA K. JAIN, J.)