

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

**CRIMINIAL APPLICATION NO.5237 OF 2016  
IN  
CRIMINAL APPEAL NO.529 OF 2016**

Balasaheb Shivaji Abhale and another .. Applicant

**Versus**

The State of Maharashtra .. Respondent

Mr.Shailesh S. Chapalgaonkar, Advocate for the applicant  
Mrs.P.V.Diggikar, APP for the respondent/ State

**CORAM : V.L.ACHLIYA, J.  
DATED : 05.10.2016**

**P.C. :-**

1. The applicants-appellants have preferred this application seeking bail during the pendency of appeal on the grounds as set out in the application.

2. Learned counsel for the applicants strenuously contended that the reasons and findings recorded by the Trial Court to held guilty for the offence punishable under Section 307 r/w 34 of IPC are not sustainable. He has submitted that two witnesses to the incident examined by the prosecution they have not supported the case of the prosecution. It has been brought on record that the complainant was on cross terms with the applicants. The

Medical Officers examined also not supported the case of the prosecution to prove the charge under Section 307 of IPC.

3. Learned APP submits that there is ample evidence to prove the charge under Section 307 r/w 34 of the Indian Penal Code. The complainant has fully supported the case of the prosecution, The testimony of the Medical Officer and the injuries found on the person duly corroborates the testimony of complainant.

4. Having appreciated the submissions advanced in the light of evidence adduced by the prosecution and the reasons and findings recorded by the Trial Court I am of the view that the arguable case has been made out to consider in Appeal. During the trial the applicants were on bail. I am therefore inclined to allow the application subject to following conditions.

#### Order

i. Application is allowed in terms of prayer clause (A).

ii. Pending disposal of appeal the applicants be released on bail on their

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furnishing fresh bail bond in the sum Rs.50,000/- each with one surety in the like amount on following conditions.

(a) Applicants shall mark their attendance before the Kopargaon Police Station on 1st day of each month between 10 a.m. to 11 a.m.

(b) The applicants shall furnish the names and address of their 3 close relatives with phone numbers.

(c) The applicants shall not cause threat to complainant and other prosecution witness.

(d) In the event of change in address the applicants shall intimate concerned police station and as well as this court.

iii. In the event of breach of any of the conditions, the bail granted to the applicants shall be liable to be canceled.

**[V.L.ACHLIYA,J.]**