

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 6970 OF 2015

IN

CRIMINAL APPEAL NO. 944 OF 2015

1. Sambhaji s/o Sakharam Gagalwad,
Age : 36 years, Occu. Agri.

2. Ganesh s/o Sakharam Gagalwad,
Age : 27 years, Occu. Agri.

Both r/o Mahati, Tq. Mukhed,
District Nanded

APPLICANTS

VERSUS

The State of Maharashtra,
through Police Station,
Mukhed, Tq. Mukhed, District Nanded

RESPONDENT

Mr. G.R. Ingole-Patil, Advocate for the applicants
Mr. R.V. Dasalkar, A.P.P. for the respondent-State

CORAM : M.T. JOSHI, J.

DATE : 20/01/2016

ORAL ORDER :

1. Heard both sides.

2. Both the present applicants/appellants, who are convicted and sentenced by the learned Additional Sessions Judge-4, Nanded, vide his order dated 23rd November, 2015 passed in Sessions Case No. 10 of 2014,

for the offences punishable under section 307 read with section 34 of the Indian Penal Code and under section 4 punishable under section 25 of the Arms Act, are praying for suspension of substantive sentences awarded to them and for their release on bail, during pendency of the appeal.

3. Both the applicants/appellants are sentenced to suffer rigorous imprisonment for five years and one year, respectively on each of the count.

4. The prosecution case would reveal that the applicant/appellant No. 1 - Sambhaji has used a sword and caused injury on the head of the victim. The medical evidence would show that the victim has suffered a contused lacerated wound and the skull was exposed on the left and right parietal region. Besides this, he has suffered other injuries.

. So far as applicant/appellant No. 2 - Ganesh is concerned, the prosecution case is that he was armed with iron bar and has assaulted the victims. The injuries attributed to him, however, are simple, as certified by the Medical Officer.

5. Learned counsel for the applicants/appellants submitted that both the applicants are behind the bars for a period of two years and four months.

6. Learned A.P.P., on the other hand, opposed the application.

7. Considering the material against the applicant/appellant No. 1 - Sambhaji that as per the prosecution, he has caused injury by sword over the head of the victim and the skull was exposed, I am not inclined to release applicant No. 1 on bail.

8. So far as applicant No. 2 - Ganesh is concerned, considering the material on record, as discussed above, he deserves to be released on bail. Hence, the following order.

9. The present application to the extent of applicant No. 1 - Sambhaji is hereby dismissed.

10. Applicant No. 2 - Ganesh s/o Sakharam Gagaldwad be released on bail on his executing P.R. bond in the sum of Rs. 20,000/- (rupees twenty thousand) and also upon furnishing surety in the like amount. The

application to the extent of applicant No. 2 is accordingly allowed.

11. Since the applicant/appellant No. 1 – Sambhaji would be in jail, learned counsel for the applicants/appellants submits that he would submit the private paper-book and thereupon, the appeal be fixed for final hearing. Accordingly, the private paper-book be furnished within a period of four weeks from the date of this order. The appeal be placed for final hearing upon supply of private-paper book, at the request of learned counsel for the applicants/appellants.

12. Hamdast of this order is granted at the request of learned counsel for the applicants/appellants.

13. The present application is accordingly disposed of.

[M.T. JOSHI]
JUDGE

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