

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 41 OF 2016
IN
CRIMINAL REVISION APPLICATION NO. 46 OF 2016

1 Prakash Ananda Patil
2 Ananda Subhana Patil
3 Baban Subhana Patil
4 Sarjerao Subhana Patil
5 Bajirao Subhana Patil. ... Applicants.

Versus

The State of Maharashtra. ... Respondent.

Mr. Tejas Hilage, advocate for Applicants.

Mrs. A.A. Mane, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J
DATE : JANUARY 29, 2016

P.C.:

1 Heard the learned Counsel for the applicants and the learned
APP for the State.

2 This is an application seeking suspension of substantive sentence imposed upon the applicants. The applicants herein were convicted by the Assistant Sessions Judge, Kolhapur for offence punishable under Section 307 read with section 149 of the Indian Penal Code and sentenced to suffer R.I. for 7 years each and fine of Rs. 2,000/- each I.d. R.I. for 6 months. They were also convicted for the offence punishable under Section 325 read with Section 149 of the Indian Penal Code and sentenced to suffer R.I. for 3 years each and to pay fine of Rs. 1,000/- each I.d. further R.I. for 2 months in Sessions Case No. 29 of 2010 vide Judgment and Order dated 22/10/2012.

3 Being aggrieved by the said Judgment and Order, the applicants had filed Criminal Appeal No. 177 of 2012 before the Ad-hoc Addl. Sessions Judge-1, at Kolhapur. The learned Ad-hoc Additional Sessions Judge, Kolhapur vide Judgment and Order dated 22/1/2016 has been pleased to acquit the accused of the charges punishable under Section 147 and 307 read with 149 of the Indian Penal Code.

However, the applicants are convicted for offence punishable under Section 148 of the Indian Penal Code and sentenced to suffer R.I. for 6 months and to pay fine of Rs. 500/- I.d. to suffer S.I. for 30 days. The applicants are also convicted for the offence punishable under Section 326 read with Section 149 of the Indian Penal code and sentenced to suffer R.I. for 3 years and to pay fine of Rs. 1000/- I.d. to suffer S.I. for 3 months. The applicants were taken into custody after the dismissal of the appeal on 22/1/2016.

4 The learned Counsel for the applicants submits that the applicants were on bail during the pendency of the trial as well as during the pendency of the appeal and have not committed breach of any condition imposed upon them. The sentence imposed upon the applicant is a short term sentence. It is not likely that the revision would be heard in the near future. It is also submitted that in the present case, the prosecution has failed to prove the guilt of accused beyond reasonable doubt and the evidence on record has not been appreciated in its proper perspective.

5 Taking into consideration the facts of the case and the submissions advanced across the bar, the applicants deserve to be enlarged on bail during the pendency of the revision application.

6 Hence, following order :

ORDER

(i) The application is allowed.

(ii) The substantive sentence imposed upon the applicants is hereby suspended. The applicants be enlarged on bail. Same bail, fresh bond.

(iii) The applicant shall furnish their residential address, contact number like landline number, cell phone number, etc. to the concerned court.

(iv) The applicants shall attend the court of Assistant Sessions Judge, Kolhapur once in 6 months on the date specified by the concerned court. Upon failure to attend two consecutive dates, the prosecution is at liberty to move for cancellation of bail.

7 The application stands disposed of accordingly.

Parties to act on the authenticated copy of this order.

(SMT. SADHANA S. JADHAV,J)