

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL APPLICATION NO. 342 OF 2016
IN
CRIMINAL APPEAL NO. 189 OF 2016

1) Jagdish Dharma Dhumal
2) Dharma Satoba Dhumal
3) Bhamabai Dharma DhumalApplicants

V/s.

The State of MaharashtraRespondent

Mr. Aniket U. Nikam for Applicant
Mrs. A. A. Mane APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : MARCH 15, 2016.

PC :

Heard. This is an application under section 389 of Code of Criminal Procedure, 1973. Applicant no. 1 herein is convicted for offence punishable under section 306 r/w 34 of Indian Penal Code and is sentenced to suffer rigorous imprisonment for 5 years and fine of Rs. 10,000/- in default to suffer rigorous imprisonment 50 days. Applicant nos. 2 & 3 are also convicted for offence punishable under section 306 r/w 34 of Indian Penal Code and are sentenced to suffer rigorous imprisonment for 3 years and fine of Rs. 5000/- in default to suffer rigorous imprisonment for 25 days by Sessions Judge,

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Nashik in Sessions Case No. 1 of 2013 vide Judgment and Order dated 22/02/2016.

2) Learned counsel for the applicants, upon instructions submits that applicants were on bail during the pendency of trial and have not committed breach of any conditions imposed upon them and therefore, they are entitled to the extension of same relief during the pendency of appeal. It is further submitted that applicant no. 1 was taken into custody on 10/02/2016. It is further submitted that accused no. 1 and deceased are blessed with son who is at present being looked after by the applicant nos. 2 & 3.

3) Learned APP vehemently submits that wife of present applicant no. 1 namely Gayatri has committed suicide within one and half year of marriage and therefore, applicants are not entitled to grant of relief, however, taking into consideration the quantum of sentence and the fact that the minor child is with applicant nos. 2 & 3, this Court is inclined to enlarge applicant on bail.

ORDER

- (i) Application is allowed.
- (ii) The substantive sentence imposed upon the applicants is hereby suspended. They be enlarged on bail. Same bail, fresh bonds.

- (iii) Applicant no. 1 be released from Nashik Central Prison, on furnishing fresh bail bonds, if not required in any other offence.
- (iv) Applicant nos. 2 & 3 shall furnish fresh bail bonds within 3 weeks. Upon failure to furnish fresh bail bonds, Sessions Court, Nashik shall issue non-bailable warrant against accused calling upon them to serve the rest of the substantive sentence.
- (v) Applicants shall attend Court of Sessions, Nashik, once in six months, as directed by the concerned Court, till the conclusion of appeal.
- (vi) Upon failure to attend any two consecutive dates, prosecution would be at liberty to seek cancellation of bail.
- (vii) Application stands disposed of.
- (viii) Parties to act on authenticated copy of this order.

(SMT. SADHANA S. JADHAV, J.)