

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL APPLICATION NO. 635 OF 2016
IN
CRIMINAL APPEAL NO. 353 OF 2016

- 1) Aslam Sattar Shaikh
- 2) Taussif Sattar Shaikh
- 3) Mansur @ Babu Sattar Shaikh
- 4) Haniff Shabbir Shaikh
- 5) Imran Shabbir Shaikh

.....Applicants

V/s.

The State of Maharashtra

....Respondent

Mr. Ganesh Gole Advocate for Applicants.
Mr. S. S. Pednekar APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : MAY 6, 2016.

PC :

Heard. This is an application under section 389 of Code of Criminal Procedure, 1973 seeking suspension of substantive sentence. Applicants herein are convicted for offence punishable under section 304 part II r/w section 34 of Indian Penal Code and sentenced to suffer rigorous imprisonment for 3 years and fine of Rs. 1000/- each in default to suffer further simple imprisonment for one month. They are also convicted for

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offence punishable under section 324 r/w section 34 of Indian Penal Code and sentenced to suffer rigorous imprisonment for one year and fine of Rs. 1,000/- each in default to suffer further simple imprisonment for one month by District Judge – 7 & Additional Sessions Judge, Nashik in Sessions Case No. 299 of 2013 vide Judgment and Order dated 04/04/2016.

2) Learned counsel for the applicants submits that applicants were on bail during the pendency of trial and have not committed breach of any conditions imposed upon them.

3) Learned APP submits that the sentence imposed upon the applicants is the minimum sentence prescribed for section 304 part II of Indian Penal Code and therefore, they should not be enlarged on bail. However, as on today, the substantive sentence has been suspended by the learned Sessions Judge during the filing period of appeal period. The sentence imposed upon the applicants is a short term sentence and it is not likely that the appeal would be heard in the near future. Hence, following order.

ORDER

(i) Application is allowed.

(ii) The substantive sentence imposed upon the applicants is hereby

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suspended and they be enlarged on bail on furnishing P.R. bond in the sum of Rs. 25,000/- each and one or more sureties in the like amount.

(iii) Applicants shall furnish fresh bail bonds before Sessions Court within 6 weeks from today.

(iv) Upon failure to furnish fresh bail bonds within the stipulated time, Sessions Judge shall issue non-bailable warrant, calling upon the accused to serve the substantive sentence.

(v) Applicants shall report to Court of Sessions Satara, once in six months on the date as specified by the Sessions Judge, till the conclusion of appeal.

(vi) Upon failure to attend any two consecutive dates, prosecution would be at liberty to seek cancellation of bail.

4) Application is allowed and disposed of in the above terms.

(SMT. SADHANA S. JADHAV, J.)