

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

**CRIMINAL APPLICATION NO.114 OF 2017
IN
CRIMINAL APPEAL NO.07 OF 2017**

Arun Laxmanrao Alne and another .. Applicants

Versus

The State of Maharashtra .. Respondent

Mr.Govind A. Kulkarni, Advocate i/b Mr.Rajendra S.
Deshmukh, Advocate for the applicants
Mr.A.A.Jagatkar, APP for the respondent/State

**CORAM : V.L.ACHLIYA, J.
DATED : 23.01.2017**

P.C. :-

. The applicants have moved this application seeking suspension of substantive sentence and release on bail, during pendency of appeal.

2. The applicants alongwith twelve other accused were tried for committing offence punishable under Sections 147,148,188,307,504 & 506 r/w 149 of Indian Penal Code and under Sections 3 & 4 of Prevention of Damage to Public Property Act, 1984.

3. On conclusion of the trial the applicants were

held guilty of offence under Section 324 of Indian Penal Code and sentenced to suffer R.I. for two years and to pay fine of Rs.7000/- in default to suffer R.I. for three months and for convicting offence under Section 353 of Indian Penal Code and sentenced to suffer R.I. For one year and to pay fine of Rs.5000/- and in default to suffer R.I. for two months. Being aggrieved the applicants have preferred appeal on the grounds set out in detail in the memo of appeal.

5. Learned counsel for the applicant strenuously contended that the impugned judgment and order passed by the trial court is not sustainable in law and there is no cogent, convincing and reliable evidence to sustain the conviction under Section 324 and 353 of the Indian Penal Code. He further submits that looking to the nature of the offence proved against the applicants and sentence awarded the applicants deserves to be enlarged on bail as it will not possible to immediately list the appeal for final hearing.

6. Learned APP has opposed the application with contention that the applicants are tried for committing offence of assaulting the officer from the cadre of Indian Administrative Service, who was then posted as Chief Officer of Municipal Council Kinwat. He further

submits that injured had sustained head injury in that assault. He further submits that the applicants may indulge into similar type of offence, if released on bail.

8. Having appreciated the submission advanced in the light of reasons and findings recorded by the trial court and over all facts of the case the nature of the offence proved and sentence awarded, I am of the view the applicant be enlarged on bail as it is not possible to immediately take up the appeal for final hearing. In this view the application is allowed subject to certain conditions. Hence the following order.

ORDER

I) Application is allowed.

II) Pending disposal of appeal the execution of substantive sentence awarded to the applicants stands suspended subject to deposit of fine.

III] Pending disposal of appeal the applicants Arun Laxmanrao Alne and Rahul Gautam Kapse be released on bail on their furnishing

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

- a) The applicants shall mark their attendance before the Police Station, Kinwat, Dist. Nanded on last day of each month in between 10.00 am to 11.00 am. till final disposal of the appeal.
- b) The applicants shall furnish the names and addresses of his 3 close relatives with phone numbers.
- c) The applicants shall not cause threat to complainant and other prosecution witnesses.
- d) In the event of change in address the applicants shall intimate concerned Police Station as well as this Court.
- e) During pending of the appeal the applicants shall not involve in any criminal case.

IV) In the event of breach of any of the condition, the bail granted to the applicants liable to be canceled.

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V) Bail to be furnished in the trial Court.

VI) The Office In-Charge of the Police Station, Kinwat, Dist. Nanded is directed to submit the report of compliance of conditions of bail after every six months.

[V.L.ACHLIYA,J.]