

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

**CRIMINAL APPLICATION NO.1588 OF 2017
IN
CRIMINAL APPEAL NO.119 OF 2017**

Bhikan Mohan Nhavi and others .. Applicants

Versus

The State of Maharashtra .. Respondent

Mr.Girish Nagori, Advocate for the applicants

Mrs. Vaishali Patil-Jadhav, APP for the respondent/State

CORAM : V.L.ACHLIYA, J.

DATED : 30.03.2017

P.C. :-

. The applicants have moved this application seeking suspension of sentence and release on bail during the pendency of the appeal on the ground set out in detailed in the memo of appeal.

2. Heard the learned counsel for the applicants and APP for the respondent and perused the impugned judgment and order dated 03.03.2017 passed by the Additional Sessions Judge, Jalgaon.

3. The applicants were tried for committing the offences under Sections 149 to 149, 323, 324 r/w 149 337,

447 & 504 of the Indian Penal Code. On conclusion of the trial they were convicted for the said offences by imposing different sentences. The maximum sentence awarded is of two years. In order to prefer an appeal the trial Court has suspended the sentence.

4. Mr. Nagori learned counsel for the applicants submits that in the counter case instituted on the basis of complaint lodged by applicant/accused No.1 the cross case was registered against the complainant and other witnesses. They were convicted by the trial Court. Conviction is based upon testimony of interested witnesses. No independent witnesses will examine by the prosecution. The applicant has a good case in appeal. He submits that looking to the nature of offence, sentence awarded the applicants be enlarged on bail. He further submits that during the trial the applicants were on bail.

5. Learned APP has opposed the application with contention that there is sufficient evidence to convict the applicants for which they have been held guilty by the trial Court. She further submits that in the event the applicants are released on bail there is every likelihood that they may abscond.

6. Having appreciated the submissions advanced in the light of judgment and order passed by the trial Court, over all facts of the case nature of offence the sentence awarded and grounds raised, I am of the view the case is made out to entertain the request of applicants to suspend the sentence and to enlarge the applicants 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 following conditions.

ORDER

I) Application is allowed.

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

III] Pending disposal of appeal the applicants namely Bhikan Mohan Nhavi, Dattatray Sukhdeo Nhavi, Bhagwan Bhikan Nhavi, Balu @ Valmik Sukhdeo Nhavi, Dnyandeshwar @ Nana Bhikan Nhavi, Sukhdeo Mohan Nhavi, Shantabai Sukhdeo Nhavi, Kamalbai Champalal Nhavi, Surekha Dattatray Nhavi, Jijabai Bhikan Nhavi, Vaishali Balu @ Valmik Nhavi & Sangitabai Bhagwan Nhavi

be released on bail on their furnishing bail in the sum of Rs.25,000/- each with one or two surety in like amount on the following conditions.

- a) Applicant Nos.1 to 6 shall mark their attendance before the Police Inspector, Pimpalgaon-Hareshwar Police Station, Tq. Pachora, Dist. Jalgaon every month on last day in between 10.00 a.m. to 11.00 a.m. till final disposal of the appeal.
- b) The applicants shall furnish the names and addresses of their 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 conditions, the bail granted to the applicants liable to be canceled.

V) Bail to be furnished before the trial Court. In case the bail is not furnished before the trial Court within two weeks from the date of this order, the order of suspension of sentence stands re-called and canceled.

VI) The trial Court is directed to report the compliance of furnishing of bail within three weeks to this Court.

VII) The Police Inspector, Pimpalgaon-Hareshwar Police Station, Tq. Pachora, Dist. Jalgaon is directed to submit the report of compliance of conditions of bail after every six months till final disposal of the appeal.

[V.L.ACHLIYA, J.]