

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

**CRIMINAL APPLICATION NO.1965 OF 2017
IN
CRIMINAL APPEAL NO.139 OF 2017**

Mirabai Subhash Patil .. Applicants
and others

Versus

The State of Maharashtra .. Respondent

Mr.Abhaysinh K. Bhosale, Advocate for the applicant
Mrs.V.N.Patil-Jadhav, APP for the respondent/State

**CORAM : V.L.ACHLIYA, J.
DATED : 24.04.2017**

P.C. :-

. The applicants have moved this application seeking suspension of sentence and release on bail during the trial on the grounds set out in detail in the memo of appeal.

2. Heard learned counsel for the applicant and APP for the respondent/State.

3. The applicants were tried for committing offence punishable under Sections 307,324,337,447 and 504 r/w 147 to 149 of the Indian Penal Code. On conclusion of the trial the the accused Nos. 2 to 6 and 10 are held guilty

of offence punishable under Section 307 r/w 149 of the I.P.C. and sentenced to suffer R.I. for three years each and to pay fine of Rs.2,000/- I.D. R.I. for one month and accused No.1 and 7 are also held guilty for committing offence punishable under Section 307 r/w section 149 of I.P.C. and sentenced to suffer R.I. for three months each and to pay fine of Rs.1000/- each I.D. S.I. for 15 days. The accused Nos. 2 to 6 and 10 are held guilty for committing the offence punishable under Section 324 r/w Section 149 of the I.P.C. and sentenced to suffer R.I. for one year each and to pay fine of Rs.1000/- I.D. R.I. for one month and they are also convicted for the offence punishable under Section 337 r/w section 149 of I.P.C. and sentenced to suffer R.I. for three months each and to pay fine of Rs.1000/- each I.D. S.I. for 15 days. Being aggrieved the applicants have preferred the appeal.

4. In nutshell it is the contention of the learned counsel for the applicants that the conviction is not sustainable in law as the trial Court has not properly appreciated the evidence. He submits that no offence under Section 307 is made out. On account of incident the counter case has been registered. He further submits that no case of attempt to murder was established on the part of the accused. He further submits that during the trial the applicants were on bail. On conclusion of the trial

the trial court has suspended the sentence to enable the applicants to prefer the appeal. He submits that it will not be possible to immediately hear the appeal finally. He, therefore, urged to release the applicants and suspend the sentence.

5. Learned APP has opposed the application with contention that there is strong evidence to connect the applicants for which they have been convicted by the trial Court. He submits that injured witness and other witnesses have supported the case of the prosecution. He submits that if the applicants released on bail there is every likelihood that they may abscond or may indulge into similar type of offence.

6. Upon considering the submissions advanced, the nature of offence, sentence awarded by the trial Court and grounds raised in the appeal, I am of the view that pending disposal of the appeal the applicants deserves to be released on bail. During pendency of the trial the applicants were on bail. The trial Court has suspended the sentence to enable the applicants to prefer the appeal. The maximum sentence awarded is of three years. It may not be possible to immediately take up the appeal for final hearing. In case the substantive sentence is not suspended the appeal may become infructuous,

therefore, I am inclined to pass 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 and compensation.

III] Pending disposal of appeal the applicants namely Mirabai Subhash Patil, Subhash Natthu Patil, Laxman Natthu Patil, Shantaram Laxman Patil, Yogesh Laxman Patil, Manoj @ Devidas Vishwanath Patil, Kaushalyabai Laxman Patil, Dnayaneshwar Namdev Mapari be released on bail on their furnishing bail in the sum of Rs. 25,000/- each with one surety in like amount on the following conditions.

a) The applicants shall mark his attendance before the Police Inspector, Police Station Pimpalgaon-Hareshwar, Tq. Pachora, Dist. Jalgaon on every month of last day 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 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 recalled 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, Police Station Pimpalgaon-Hareshwar, 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.]