

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD  
CRIMINAL APPLICATION NO.2070 OF 2017  
IN  
CRIMINAL APPEAL NO.165 OF 2017**

Vithal Bhimrao Poul  
and another

.. Applicants

**Versus**

The State of Maharashtra

.. Respondent

Mr.Vilas P. Savant, Advocate for the appellant  
Mrs.V.N.Patil-Jadhav, APP for the respondent/State

**CORAM : V.L.ACHLIYA, J.  
DATED : 25.04.2017**

**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 applicants and APP for the respondent/State and further perused the R & P of the trial Court.

3. The applicants were tried for committing the offence under Section 324, 504, 506 r/w 34 of I.P.C and under Section 3(1)(x) of S.C. & S.T. (Prevention of Atrocities) Act, 1989 and under Section 7(i)(d) of Protection of Civil Rights Act, 1955. On conclusion of

the trial the trial Court has convicted the applicants under section 324 r/w 34 of I.P.C. and sentenced to suffer S.I. for one year and under section 3(1)(x) of the S.C. & S.T. (Prevention of Atrocities) Act sentenced to suffer S.I. for six months each and to pay fine of Rs. 500/- each I.D. to suffer S.I. for one month. The applicants are acquitted of an offence punishable under Section 504 & 506 of I.P.C.

4. In nutshell it is the contention of the learned counsel for the applicants that the conviction is not sustainable in law. 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 that pending disposal of appeal release the applicants on bail and suspend the sentence. He further submits that in case the sentence is not suspended the appeal may become the infructuous.

5. On the other hand learned APP opposed the application with contention that there strong evidence to prove guilty against accused. She submits that judgment and order passed by the trial Court is well reasoned and based upon proper appreciation. She 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 one year. 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 Vithal Bhimrao Poul and Sachin Udhavrao Mugale 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 Station Officer, Police Station, Kasar Shirshi, Tq. Nilanga, Dist. Latur 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 Station Officer, Police Station, Kasar Shirshi, Tq. Nilanga, Dist. Latur 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.]**