

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE**

**CRIMINAL APPLICATION NO.8 OF 2017
WITH
CRIMINAL APPLICATION NO.9 OF 2017
IN
CRIMINAL APPEAL NO.1 OF 2017**

Amar @ Pandya Vithal Paskanthi & Ors. ... **Applicants**
V/s.

The State of Maharashtra ... **Respondent**

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Mr.Rushikesh G. Patil with S.B.Deokar, Advocate for the Applicants.

Mr.P.H.Gaikwad-Patil, APP for the Respondent/State.

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CORAM : A. M. BADAR J.

DATED : 17th JANUARY 2017.

P.C . :

1 By these applications, applicants/original accused Nos.1,3 and 4 are praying for suspension of sentence and releasing them on bail during pendency of the appeal. Applicants/accused are acquitted of the offence punishable under Section 307 read with Section 34 of the Indian Penal Code ("the IPC" for the sake of brevity), but they are convicted for the offence punishable under Section 326 read with Section 34 of the IPC. They are sentenced to suffer rigorous imprisonment for three years and to pay fine of Rs.2,000/-, in default to undergo further rigorous imprisonment for three months.

2 Heard the learned counsel appearing for applicant/accused as well as the learned Additional Public Prosecutor. The learned Additional Public Prosecutor opposed the application by contending that there are eye-witnesses to the crime in question.

3 After due trial ultimately applicant/accused are convicted not for the offence punishable under Section 307 read with Section 34 of the IPC, but for the offence punishable under Section 326 read with Section 34 of the IPC. Short sentence of three years is imposed on them by the learned trial Court. It is seen that during the pendency of the trial, they were on bail. There is no likelihood of hearing and deciding the appeal filed by the applicants in the near future. For all these reasons applicants are entitled for the relief and, therefore, the order.

- i) Applications are allowed.
- ii) Substantive sentence of imprisonment imposed on applicants is suspended and they are directed to be released on bail on executing PR bond of Rs.15,000/- each and on furnishing surety by each of them in the like amount .

(A. M. BADAR J.)