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

***CRIMINAL APPLICATION NO.871 OF 2017
(For Bail)
IN
CRIMINAL APPEAL NO.265 OF 2017***

1. Daulu Bapu Farakate
2. Ashok Daulu Farakate
3. Pintu@ Ramdas Daulu Farakate
4. Eaknath Dattatray Farakate
5. Ramji @Parshuram Pandurang Farakate ...Applicants
Versus
The State of Maharashtra ...Respondent

Mr.A.P.Mundargi, Senior Counsel i/b Mr.Abhishek Yende, for the Applicants.

Mr.S.H.Yadav, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.

DATE : 4th AUGUST, 2017

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the applicants seek suspension of their

sentence and enlargement on bail, pending the hearing and final disposal of their appeal.

3. The applicants vide Judgment and Order dated 9th March, 2017, passed by learned Additional Sessions Judge, Kolhapur in Sessions Case No.51 of 2007, have been convicted and sentenced as under:-

- for the offence punishable under Section 307 of the Indian Penal Code, to suffer R.I for 10 years and to pay fine of Rs.1,000/- each in default to suffer R.I. for 3 months;
- for the offence punishable under Section 143 of the Indian Penal Code, to suffer R.I for 6 months and to pay fine of Rs. 500/- each in default to suffer R.I. for 1 month;
- for the offence punishable under Section 148 of the Indian Penal Code, to suffer R.I for 1 year and to pay fine of Rs.500/- each in default to suffer R.I. for 1 month;
- for the offence punishable under Section 452 of the Indian Penal Code, to suffer R.I for 3 years and to pay fine of Rs.1,000/- each in default to suffer R.I. for 3 months.

(All the substantive sentences of imprisonment were directed to run

concurrently.)

4. Learned Senior Counsel for the applicants submits that the incident is of the year March 2007 and that the trial concluded only in 2017. He submitted that the applicants were on bail, pending trial and have not violated the terms and conditions of bail. He submitted that although there are 5 accused, there are only 4 injuries. He submitted that the complainant, after the alleged assault by the applicants, is alleged to have ran to one Sathe's house, where he was assaulted. He submitted that all the 4 witnesses in the Sathe's house were examined by the prosecution, however, the said witnesses were declared hostile and as such have not supported the prosecution.

5. Learned APP opposed the application.

6. Perused the papers. The incident is of 2007. The applicants were on bail pending trial and are not alleged to have abused or misused the liberty granted to them. It appears that the independent eye-witnesses have turned hostile. It also appears with respect to the incident, there is a

cross case, which was lodged by applicant no.5, as against the complainant in the present case and others and that a charge-sheet was filed in the said case. It also appears, that although the complainant and others have been acquitted from the said case, an appeal has been filed against their acquittal.

7. Be that as it may, after considering the evidence on record and considering that the applicants were on bail, pending trial, the application is allowed and the applicants' sentence is suspended and they are enlarged on bail, pending the hearing and final disposal of their Appeal, on the following terms and conditions :

ORDER

- (i) The Applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- each with one or two sureties in the like amount;
- (ii) The Applicants shall inform their latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the trial Court as well as to the concerned Police Station, in writing.

8. The Application is allowed in the aforesaid terms and is accordingly disposed of.
9. All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)