

Sarnobat

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

**CRIMINAL APPLICATION NO. 1412 OF 2017
IN
CRIMINAL APPEAL NO. 852 OF 2017**

Yogesh Suresh Suryavanshi. .. Applicant
Vs.
The State of Maharashtra. .. Respondent.

**WITH
CRIMINAL APPLICATION NO. 1373 OF 2017
IN
CRIMINAL APPEAL NO. 819 OF 2017**

Tayyab Basir Khatik. .. Applicant.
Vs.
The State of Maharashtra. .. Respondent.

**WITH
CRIMINAL APPLICATION NO. 1397 PF 2017
IN
CRIMINAL APPEAL NO. 838 OF 2017**

Shivajirao Mahadev Awale
& Ors. .. Applicants.
Vs.
The State of Maharashtra. .. Respondent.

Mr. M. V. Thorat, Advocate for the Applicant in APPA No.1412/2017.
Mr. P. H. Gaikwad, APP for the State.
Mr. Arjun S. Pawar, Advocate for the Applicant in APPA No. 1373/2017.
Mr. S. V. Gaikwad, APP for the State.
Mr. Shekhar Ingawale, Advocate for the Applicant in APPA No. 1397/2017.
Mr. H. J. Dedhia, APP for the Respondent/State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 11th OCTOBER, 2017.

P. C. :

1. The aforesaid applicants herein were the accused in Sessions Case No. 85 of 2009, in the file of Sessions Judge, Kolhapur wherein the Sessions Judge has held the aforesaid applicants guilty for the offences punishable under section 143, 427, 504, 506, 332, 307 r.w. Section 149 and Section 120-B of IPC and under Section 3 of Prevention of Damage to Public Property Act, 1984.

2. By this application, the applicants have sought suspension of execution of sentence imposed vide judgment dated 18th September, 2017 in the said case and prayed for release on bail.

3. Heard the learned counsel for the applicants and the learned APP for the State. Perused the record and considered the submissions advanced by the learned counsels for the respective parties.

4. Prima facie it reveals that on 9th April, 2009 one small child was electrocuted . Immediately thereafter, a group of 25/30 persons entered the office of Junior Engineer of Maharashtra State Electricity Distribution Company Limited (MSEDCL). It is alleged that the accused/applicant No. 1 in Criminal Application No. 1397

of 2017 had carried with him one Can of kerosene and the applicant No. 2 had taken can of kerosene oil and other accused were armed with sticks. It is alleged that the applicants attempted to set fire to the said office. Pursuant to the report given by one Sandeep Bhanudas Gavade, Junior Engineer in MSEDCL, the aforesaid stated crime was registered. Upon completion of investigation, charge-sheet was filed.

5. The record prima facie reveal that the accused No. 1 and accused No. 2 had carried kerosene and engine oil. They had not in fact set fire. None of the witnesses had sustained any injury. None of the said witnesses were assaulted by means of sticks. The applicants have been sentenced to undergo maximum sentence of imprisonment for Five years and directed to pay total fine of Rs.15,000/- each.

6. Considering the aforesaid facts, as well as the nature and evidence in support of the charge levelled against the applicants, in my considered view, this is a fit case to suspend the execution of sentence pending the disposal of the appeal on merits. Hence, the order :-

(i) The Criminal Application Nos. 1412 of 2017, 1373 of 2017 and 1397 of 2017 are allowed.

(ii) The execution of sentence imposed in Sessions Case No. 85 of 2017 vide judgment dated 18th September, 2017 is suspended till disposal of the appeal on merits, subject to the applicants

furnishing bail bond of Rs.20,000/- (Rupees Twenty Thousand) each with one or two solvent sureties in the like amount, to the satisfaction of Addl. Sessions Judge Kolhapur.

(iii) The applicants to deposit the fine amount within a period of Seven days.

(iv) The applicants shall furnish their permanent as well as temporary address, if any, and shall intimate change of address and contact number, if any, to the Investigating Officer, as well as to the concerned Court.

(iv) All concerned to act on an authenticated copy of this order.

[ANUJA PRABHUDESSAI, J]