

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1451 OF 2016

IN

CRIMINAL APPEAL NO.746 OF 2016

BHAGWAN KONDIBA SHELAR AND ANR.)...APPLICANTS

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Vikas Shivarkar, Advocate for the Applicants.

Mr.A.R.Kapadnis, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 4th JANUARY 2017.

P.C. :

1 The applicants - accused no.1 and accused no.5 by this application are praying for suspension of sentence and their release on bail during pendency of appeal.

2 According to the prosecution case, deceased Dadasaheb Shelar was having illicit relations with PW8 Sou.

Sunita Shelar, wife of accused no.2 Somnath Shelar. On the fateful night, he was caught in the act inside the house of accused no.2 Somnath Shelar and there he was done to death by all accused persons.

3 On due trial, ultimately, the learned trial court was pleased to convict the applicants / accused of offences punishable under Section 304 read with Section 34 of the IPC. They were sentenced accordingly.

4 Applicant / accused no.1 Bhagwan and applicant / accused no.5 Rahul were on bail throughout the trial. Applicant /accused no.1 Bhagwan is reported to be aged about 70 years whereas applicant / accused no.5 Rahul is a student of Engineering. It is not seen that they had misused their liberty during pendency of the trial though they were on bail. They both are sentenced to suffer rigorous imprisonment for 5 years and 7 years respectively.

5 In this view of the matter, their liberty needs to be secured till disposal of the appeal which will take its own time.

Hence the order :

- i) The application is allowed.
- ii) Substantive sentence of imprisonment imposed upon the applicant / accused no.1 Bhagwan Shelar and applicant / accused no.5 Rahul Shelar is suspended during pendency of the appeal and they are directed to be released on bail on executing P.R.Bond in the sum of Rs.15,000/- and on furnishing sureties in like amount, by each of them.
- iii) As a condition of this order, the applicants / accused should not tamper prosecution evidence in any manner and to co-operate this court in expeditious disposal of the appeal.

(A. M. BADAR, J.)