

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

CRIMINAL APPLICATION NO. 1565 OF 2017
AND
CRIMINAL APPLICATION NO. 1566 OF 2017
IN
CRIMINAL APPEAL NO. 949 OF 2017

1. Salauddin Shahbuddin Khan
2. Alimuddin Shahbuddin Khan
3. Kalimuddin Shahbuddin Khan .. Applicants/Appellants

v/s.

The State of Maharashtra & Ors. ..Respondents

Mr. Hakim Salim A.R. for the Applicants/Appellants.
Mr. V.V.Gangurde, APP for the Respondent-State.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : NOVEMBER 21, 2017.**

P.C.

1. By this application, the applicants herein have sought suspension of execution of sentence imposed by the learned Addl. Sessions Judge, Bombay, vide judgment dated 13th October, 2017 in Sessions Case No. 767 of 2013, and for releasing them on bail pending the appeal.

2. Heard the learned Counsel for the applicants. Perused the

records.

3. The applicants herein were prosecuted for the offences under Section 307, 326, 506(ii) r/w. 34 of the Indian Penal Code and under Section 4 and 25 of the Indian Arms Act.

4. Upon considering the evidence on record, the learned Sessions Judge has acquitted the applicants in respect of offences under Section 307 and 326 of IPC and Section 4 and 25 of the Arms Act. The applicants have been convicted and sentenced for offences under Section 324, 506 of IPC. The maximum sentenced imposed is to undergo simple imprisonment for six months, and the total fine imposed is Rs.1500/-. The fine amount has already been deposited.

5. The applicants have been sentenced to undergo short term imprisonment of six months. The appeal is of the year 2017 and is not likely to come up for final hearing in the next couple of years due to large pendency of old cases. Hence, rejection of application will result in the applicants undergoing the sentence of imprisonment even before the appeal is heard on merits. It is not in dispute that the applicants have not violated the terms of bail bond during the period when they were released on bail.

6. Considering the above factors, and also considering the nature of the allegations and the evidence in support thereof, in my considered view, this is a fit case for suspending the execution of sentence and releasing the applicant on bail pending the appeal. Hence, the order:

- (i) The applications are allowed.
- (ii) The execution of sentence imposed by the learned Addl. Sessions Judge, Gr. Bombay in Sessions Case No. 767 of 2013 is suspended till the final disposal of the appeal on merits, subject to the applicants furnishing fresh bail bond in the sum of Rs.15000/- (Rupees Fifteen Thousand Only) each with one or two solvent sureties in the like amount to the satisfaction of the learned Addl. Sessions Judge, Gr. Bombay.
- (iii) The applicants shall furnish their contact number and local as well as permanent address, if any, to the Investigating Officer as well as in the fresh bail bonds.

(ANUJA PRABHUDESSAI, J.)