

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.49 OF 2018

IN

CRIMINAL APPEAL NO.28 OF 2018

Daryappa Shadakshri Aarvat & Anr. ... **Applicants**

V/s.

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

.....

Mr.V.V.Purwant i/b. Mr.Vikrant V. Phatate, Advocate for the Applicants.

Mr.S.V.Gavand, APP for the Respondent/State.

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CORAM : A.M.BADAR J.

DATED : 16th JANUARY 2018.

P.C. :

1 This is an application for suspension of sentence and releasing the applicants/appellants/accused on bail during pendency of appeal filed by them. The applicants/appellants are convicted for the offence punishable under Section 452 of the Indian Penal Code and they are sentenced to suffer simple imprisonment for five years apart from directing them to pay fine of Rs.10,000/- each and in default to undergo further simple imprisonment for six months. They are also convicted for offences punishable under Sections 323, 504, 506 of the Indian Penal Code

and lesser sentence is imposed on them on those counts. All sentences are directed to run concurrently.

2 Heard the learned Advocate appearing for the appellants/applicants/accused. He argued that during pendency of the trial, the applicants were on bail. They are already acquitted of offences punishable under Section 3(1)(i) and 3(1)(x) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 as well as other offences alleged against them. Short sentence of imprisonment is imposed on them.

3 The learned Additional Public Prosecutor opposed the application by contending that with cogent evidence, the prosecution has proved its case.

4 I have carefully considered the rival submissions and also perused the material placed on record including depositions of witnesses.

5 The applicants/accused along with co-accused faced the trial for offences punishable under Sections 143, 147, 149, 452, 323, 504, 506 of the Indian Penal Code as well as under Sections 3(1)(i) and 3(1)(x) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Ultimately, they are convicted of offences punishable under Sections 452, 323,

504, 506 of the Indian Penal Code without the aid of Section 149 of the Indian Penal Code. Short sentence of imprisonment is imposed on them and they were on bail during pendency of the trial. They had not misused their liberty while on bail. The appeal filed by them may be not heard in short period of five years considering the pendency of appeal before this Court. Hence, the Order :

- (i) The application is allowed.
- (ii) The substantive sentence of imprisonment imposed on the applicants/appellants is suspended and they are directed to be released on bail on their executing P.R.Bond of Rs.15,000/- each and on furnishing surety in the like amount by each of them.

(A.M.BADAR J.)