

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.836 OF 2018

IN

CRIMINAL APPEAL NO.612 OF 2018

Sandesh Ram Bhagat & ors. ... **Applicants**

V/s.

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

Mr.Sachindra Bhaskar Shetye for the applicant in ALP/249/18.

Mr.Kuldeep S. Patil for the appellant.

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

CORAM : A.M.BADAR J.

DATED : 22nd JUNE 2018.

P.C. :

1. This is an application for suspension of sentence and for releasing the applicants / accused on bail during the pendency of appeal filed by them.

2. The application is moved by the applicants/accused nos.3, 4 and 5. They alongwith co-accused convicted of offences punishable under Sections 307, 341 read with Section 149 of the Indian Penal Code by

the learned Trial Court. The present applicants were sentenced to suffer rigorous imprisonment for five years for the offences punishable under Section 307 read with 149 of the Indian Penal Code. Lesser sentence is imposed on the another count.

3. Heard the learned counsel appearing for the applicants as well as the learned Additional Public Prosecutor assisted by the learned Advocate appearing for the first informant / victim of the crime in question.

4. Perusal of evidence of PW2 Balakrishna Mhatre, particularly coming on record chief examination itself shows that after the incident of abused by accused persons to Pratik Dongre and Sujit Patil. Thereafter, the alleged victim in crime in question called their friends and questioned the accused persons over the incident. That is how, according to the prosecution case, the incident in question took place. All these three applicants, prima facie have not done any overt act to infer their common object in so called unlawful assembly. Short sentence of imprisonment of five years has been imposed on them and therefore the following order;

:: ORDER ::

(i) The application is allowed.

- (ii) Substantive sentence imposed on the applicants is hereby suspended and they are directed to be released on bail on their executing P.R.Bond in the sum of Rs.15,000/- each and furnishing surety in the like amount by each of them.
- (iii) As condition of this order, the applicants/accused should not indulge in commission of similar offences in future and they should not contact either the victim of the crime in question and the prosecution witnesses in any manner during the pendency of the appeal filed by them.
- (iv) The application is disposed of accordingly.

(A.M.BADAR J.)