

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

**CRIMINAL APPLICATION NO. 1436 OF 2018
IN
CRIMINAL APPEAL NO. 708 OF 2016**

Shankar Dyandeo Patil & Anr. ...Applicants

Versus

The State of Maharashtra ...Respondent

Prof. Rohini Dandekar for the Applicants.
Mrs.M.H.Mhatre, APP for the Respondent/State.

**CORAM : MR.S.S. SHINDE &
MRS.MRIDULA BHATKAR, JJ..**

DATE : 04 OCTOBER 2018

ORDER : (PER MRS. MRIDULA BHATKAR, J.)

1. This application is moved by the applicants/accused, who are the original accused Nos. 2 and 3, in Sessions Case No. 148 of 2013. The applicants/accused are convicted for the offences punishable under Sections 302, 323 read with 34 of the Indian Penal Code and sentenced with imprisonment of life and fine of Rs. 10,000/- each by the judgment and order dated 13th October, 2016 passed by the learned Additional Sessions Judge, Kolhapur.

2. The applicants/accused have challenged the said judgment and order by filing an appeal against conviction and sentence and in the said appeal, this bail application is moved.

3. One Kuldeep @ Kumar D. More is the deceased. On 7th April 2013, in the afternoon, there was quarrel between Dhondiram More i.e., the father of the deceased Kuldeep and the original accused No.1 -Dattatray Patil in which only the father of the deceased was injured. Kuldeep thereafter immediately went to the house of the applicants/accused. At that time, both the applicants/accused, who are the parents of the principal accused Dattatray Patil, caught both hands of Kuldeep and Dattatray stabbed knife in his chest. In that assault, Kuldeep lost his life. The offence was registered at C.R. No. 46 of 2013 under Sections 302, 337 and 504 read with Section 34 of the Indian Penal Code with Radhanagari Police Station, Kolhapur against both the applicants/accused and their son Dattatray.

4. The learned counsel for the applicants/accused has submitted that both the applicants/accused are 60 years old persons. Applicant No.2

is a woman. The applicants/accused did not attack the deceased and they are innocent. The learned Additional Sessions Judge ought to have appreciated the role attributed to them in proper perspective. He has further submitted that both the applicants/accused were on bail throughout the trial, however, they were taken in custody since October, 2016.

5. The learned APP while opposing this application, has submitted that the both the applicants/accused are convicted for the offences punishable under Sections 302, 337 and 504 read with Section 34 of the Indian Penal Code and, therefore, they are not to be released on bail.

6. Heard submissions. Perused the order dated 13th October, 2016 passed by the learned Additional Sessions Judge, Kolhapur. The applicants/accused were on bail throughout the trial and did not abuse the bail. As per the case of the prosecution, the applicants/accused caught both hands of the deceased Kuldeep when he entered the house and their son stabbed him with knife. In view of the submissions of the learned Counsel and considering the role attributed to them and the present appeal will not come for hearing in near future, so we are inclined to grant bail to both the applicants/accused on the following terms:

- i) The judgment and order dated 13th October, 2016 passed by the learned Additional Sessions Judge, Kolhapur in Sessions Case No. 148 of 2013 is suspended pending the hearing of the appeal;
 - ii) The applicants/accused be released on bail upon furnishing bail bond in the sum of Rs. 20,000/- each with one or two sureties in the like amount;
 - iii) The applicants/accused shall not jump the bail.
 - iv) The applicants/accused shall remain available at the time of hearing of the appeal.
7. The Criminal Application is disposed of on the above terms.

(MRIDULA BHATKAR, J.)

(S.S. SHINDE, J.)