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

***CRIMINAL APPLICATION NO.2029 OF 2018
IN
CRIMINAL APPEAL NO.1498 OF 2018***

Chandrakant @Channu Ramchandra Mali	...Applicant
Versus	
The State of Maharashtra	...Respondent

***WITH
CRIMINAL APPLICATION NO.2041 OF 2018
IN
CRIMINAL APPEAL NO.1511 OF 2018***

Mahanteshwar @Mahantesh Chandrakant	
@ Kantu Patil	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr.M.N.Sandhyanshiv, for the Applicant in Criminal Application No.2029 of 2019.

Ms.Shradha Sawant for the Applicant in Criminal Application No.2041 of 2019.

Mr.S.V.Gavand, A.P.P for the Respondent - State.

Mr.Jaydeep Mane, for the Original Complainant.

CORAM : REVATI MOHITE DERE, J.

DATE : 10th APRIL, 2019

P.C. :

1. Heard learned counsel for the parties.
2. By these applications, the applicants seek suspension of their sentence and enlargement on bail, pending the hearing and final disposal of their appeals.
3. The Applicants (Original Accused Nos.1 and 4) along with other co-accused vide Judgment and Order dated 26th November, 2018, passed by learned Additional Sessions Judge, Solapur, in Session Case No.217 of 2012, have been convicted and sentenced as under:-
 - for the offences punishable under Section 307 r/w Section 34 of the Indian Penal Code to suffer rigorous imprisonment for 8 years and to pay fine of Rs.3,000/- each, in default of payment of fine, to suffer further rigorous imprisonment for 6 months;
 - for the offence punishable under Section 507 r/w Section 34 of the Indian Penal Code to suffer rigorous imprisonment for 2 years and to pay fine of Rs.1,000/- each, in default of payment of fine, to suffer further

rigorous imprisonment for 3 months;

Both the sentences were directed to be run concurrently.

4. The Applicants have preferred the aforesaid Appeals against the Judgment and Order of conviction and sentence.

5. Learned Counsel for the Applicants submit that the allegations against the Applicants are false and that no such incident as alleged has taken place. They submitted that the statements of eye-witnesses i.e. PW6 and PW7, were recorded after 27 days. According to the learned counsel, the bullets were not found either in the car or on the spot and as such the prosecution case cannot be accepted. They further submitted that the Applicants were on bail pending trial, and that they have not misused or abused the liberty granted to them.

6. Learned APP opposes both the applications. He, however, does not dispute the fact that the Applicants were on bail pending trial, and that they have not misused or abused the liberty granted to them.

7. Learned Counsel for the Original Complainant states that there is ample material on record to show the complicity of the Applicants in the form of C.A. Report, CDR records as well as the eye-witnesses. However, he, too, does not dispute the fact, that the Applicants were on bail pending trial and that they have not misused or abused the liberty granted to them.

8. Perused the papers. Both the Appeals have been admitted by this Court vide orders dated 14th December, 2018 and 19th December, 2018 respectively. It is not in dispute that the Applicants were on bail, pending trial and that they have not abused or misused the liberty granted to them. It appears that the statements of both the eye-witnesses i.e. PW6 and PW7 were recorded after 27 days of the incident. It also appears that no bullets have been found on the spot.

9. Be that as it may, considering the peculiar facts and circumstances of this case as well as considering the evidence on record, the applications are allowed and the applicants sentence is suspended and they are enlarged on bail, pending the hearing and final disposal of their Appeal, on the following terms and conditions :

ORDER

- i) The Applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- each with one or two local sureties in the like amount;
- ii) The Applicants shall report to the trial Court, once in three months on the day/date specified by the trial Court, till their Appeals are finally disposed of;
- iii) The Applicants shall keep the trial Court informed of their current address and mobile contact number and/or change of residence or mobile details, if any, from time to time;
- iv) If there are two consecutive defaults in appearing before the trial Court, the learned Judge shall make a report to the High Court and the prosecution would be at liberty to file an application seeking cancellation of bail.

10. The Applications are allowed in the aforesaid terms and are accordingly disposed of.

11. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.