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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

**CRIMINAL APPLICATION NO.1023 OF 2018 IN
CRIMINAL APPEAL NO.701 OF 2017**

Rahul Jalandar Ubale ...Applicant
vs.
State of Maharashtra & Ors. ...Respondents

**ALONG WITH
CRIMINAL APPLICATION NO.1027 OF 2018 IN
CRIMINAL APPEAL NO.699 OF 2017**

Nitin Bandu Burande ...Applicant
vs.
State of Maharashtra & Ors. ...Respondents

Dr.Yug Mohit Chaudhary Advocate appointed and Ms
Payashi for the applicant in both applications
Mr.Arfan Sait, APP for the respondent No.1-State
Mr.Yogesh Prakash Morbale for respondent Nos.2 to 4.

CORAM : A.S.OKA, &
SANDEEP K. SHINDE, JJ.
DATE : JANUARY 9, 2019

P.C.:

1 Criminal Application No.1023 of 2018 is by the
accused No.2 and Criminal Application No.1027 of
2018 is by the accused No.3. The applicants along
with other two co-accused have been convicted for
the offences punishable under sections 324 read with
34 of the Indian Penal Code and 302 read with
section 34 of the Indian Penal Code. The applicants
have been sentenced to undergo life imprisonment.
There is a remark of the Registry that the fine

imposed on the applicants has been deposited.

2 The learned counsel for the applicants relied upon the order dated 4th June 2018 passed by the Division Bench of this Court in Criminal Application No.183 of 2018 which is an application filed by the Accused No.4. For the reasons recorded in the said order, the Accused No.4 was ordered to be enlarged on bail pending the final disposal of his appeal on the terms and conditions incorporated therein.

3 The submission of the learned counsel for the applicants in support of their applications is that the role attributed to the Accused No.4 is no different from the role attributed to the present applicants. The learned APP on a query made by the Court accepted that there is no material available against these two applicants in addition to the material evidence against the accused No.4. He, however, submitted that an offence has been committed by the applicant in Criminal Application No.1023 of 2018 while he was released on bail in connection with another offence. The learned counsel for the respondent Nos.2 to 4 submitted that the applicants have approached their neighbour for settlement and the accused No.1 is found wandering around the residence of the respondent Nos.2 to 4.

4 We have considered the submissions. Paragraph 2 of the order dated 4th June 2018 in Criminal Application No.183 of 2018 reads thus:

"2. It is the prosecution case that the applicant along with other accused assaulted Rajeshil Gursale who was the husband of P.W.No.16 Laxmi Gursale. Laxmi Gursale is the first informant and according to the prosecution, she is an eye witness to the incident and she is also an injured witness, however, on going through the evidence, it is noticed that P.W.No.16 Laxmi Gursale has not supported the prosecution case. She has been declared hostile. So also the other eye witnesses i.e P.W.No.11 Mangal, P.W.No.12 Vaishali, P.W.No.13 Vijay, P.W.No.14 Sanjay and P.W.No.15 Kiran have all turned hostile. According to the prosecution, there is recovery of certain articles at the instance of of the applicant. However, it is noticed that panch witnesses have also turned hostile. Looking to the evidence on record, prima facie, we do not find any cogent, convincing and reliable material which implicates the applicant. In this view of the matter, we are inclined to grant bail to the applicant, hence the following order is passed:

ORDER

1) Applicant-Riyaj Dastagir Shaikh to be released on bail in the sum of Rs.1,00,000/- (Rs.one lakh only) with one or two sureties to make up the said amount;

- 2) The applicant shall not enter into Ichalkaranji area till further orders;
- 3) Before being released on bail, the applicant shall intimate the address at which, he will reside during the period that he is on bail;
- 4) The applicant shall report to the nearest police station to that address once in a week i.e on the first Monday of every week;
- 5) Application is allowed and is disposed of in above terms."

5 The Division Bench has imposed stringent conditions by fixing the bail amount at Rs.1 lakh and by imposing other conditions including the condition of not entering the area of Ichalkaranji. As case of these two applicants is no different, they are entitled to be enlarged on bail on the same terms and conditions.

6 Accordingly, we pass the following order:

- (I) Pending the final disposal of Appeal Nos.701 of 2017 and 699 of 2017 respectively sentence imposed on the applicant-Rahul Jalandar Ubale in Application No.1023 of 2018 and the applicant-Nitin Bandu Burande in Application No.1027 of 2018 (accused Nos.2 and 3) shall stand suspended;
- (II) Both the applicants shall be enlarged on bail in the sum of Rs.1,00,000/- (Rs.one lakh

- only) each with one or two sureties to make up the said amount;
- (III) Both the applicants shall not enter Ichalkaranji area till further orders;
- (IV) Before release on bail, both the applicants shall intimate the addresses at which they will be residing during the pendency of the appeals to the Officer Incharge of the concerned Police station in which the offence is registered. They shall also communicate the contact telephone number/cell number to the said Officer;
- (V) The applicants shall report to the nearest police station of their respective places of residence on first Monday of every week;
- (VI) Applications are allowed on above terms.

(SANDEEP K. SHINDE,J.)

(A.S.OKA,J.)