

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

**CRIMINAL APPLICATION NO.1176 OF 2019
ALONGWITH
CRIMINAL APPLICATION NO.1177 OF 2019**

**IN
CRIMINAL APPEAL NO.966 OF 2019**

1. Smt. Ashwini Ashok Bhagat
2. Shri. Ashok Tanaji Bhagat Applicants

Vs.

The State of Maharashtra Respondent

Mr. Vijay Desai i/by Ms. Yogini A. Ugale for the Applicants.

Mr. S.R. Agarkar, APP for State.

Coram : Smt. Sadhana S. Jadhav, J.

Date : 7th August 2019

P.C.:

1. Heard the respective counsel.
2. These are applications under Section 389 Code of Criminal Procedure seeking suspension of substantive sentence. The applicants herein are convicted by the Additional Sessions Judge, Raigad-Alibaug in Sessions Case No. 106 of 2016, for the offences punishable under Sections 306 and 498-A read with 34 of Indian Penal Code. The applicants are sentenced to suffer

simple imprisonment for five years and fine of Rs.5,000/- each, on each count vide judgment and order dated 26th June 2019.

3. Perused the substantive evidence adduced by the prosecution at the time of trial. The case rests upon three dying declarations of the victim, who happens to be daughter-in-law of the present applicants. It is alleged by the victim that she was being harassed and ill-treated by her mother-in-law and father-in-law to such an extent that she could not bear the same any longer. The mother-in-law i.e. accused no.1 happens to be paternal-aunt of the victim. On the date of the incident i.e. on 24th December 2014, there was a quarrel between accused no.1 and the victim, which drove her to set herself ablaze. She succumbed to the burn injuries on 24th January 2016. In any case, the sentence imposed upon the applicants is a short term sentence. Learned counsel for the applicants submits that the applicants were on bail during pendency of the trial and have not committed breach of any conditions imposed upon them.

4. Applicant no.1 is about 50 years old and applicant no. 2 is about 57 years old. In view of this, the applicants deserve

to be enlarged on bail during pendency of the appeal. It is made clear that suspension of substantive sentence shall not be construed as suspension of conviction. Hence, the following order.

ORDER

- i) The applications are allowed and stand disposed of.
- ii) The substantive sentence imposed upon the applicants vide judgment and order dated 26th June 2019 is hereby suspended.
- iii) The applicants be enlarged on bail on furnishing P.R. bonds in the sum of Rs.30,000/- each with one or more solvent sureties in the like amount.
- iv) Upon being enlarged on bail, the applicants shall mark their presence before the learned Sessions Judge, Raigad-Alibaug once in three months on the date assigned by the Sessions Judge.
- v) Upon failure to attend any two consecutive dates, the Sessions Court shall report the same to the High Court and the prosecution would be at liberty to file an application seeking cancellation of bail.

(Smt. Sadhana S. Jadhav, J)