

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1359 OF 2019
IN
CRIMINAL APPEAL NO. 1113 of 2019

Maruti Akoba Killedar and Ors. ... Appellants/Applicants
V/s.

The State of Maharashtra ... Respondent

Mr. Gaurav Parkar for applicants/appellants.
Mr. S.R. Agarkar– APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J
DATED : 21ST AUGUST, 2019.

P.C. :

1. Heard.
2. This is an application filed under Section 389 of Cr.P.C. The applicants herein are seeking suspension of substantive sentence imposed upon them by the Additional Sessions Judge, Kolhapur in Sessions Case No. 116 of 2015, vide judgment and order dated 25th July 2019 thereby convicting them for the offence punishable under Section 307 of Indian Penal Code and sentencing them to suffer R.I. for five years and to pay fine of Rs. 2000/- in default, to suffer further R.I. for two months. They are also convicted for the offence punishable under section 326 of Indian Penal Code. However, no separate sentence is imposed upon them.
3. The case is arising out of a cross complaint. The applicant

herein happens to be an informant in Crime No. 51 of 2014. Since it is a cross complaint both the accused were tried together. The applicants herein are convicted in Crime No. 53 of 2014 registered at the same police station.

4. Perused the notes of evidence, it appears that the injured PW-1 Ramchandra Ganapati Tambekar had sustained one incise wound on his head admeasuring 8x1x1cms. The scene of offence has occurred in the agricultural land. The Doctor who examined the injured has specifically stated that the head injury was not sufficient in the ordinary course of nature to death. However, it was a grievous injury. The applicants were on bail during the pendency of the trial and have not committed breach of any conditions imposed upon them. The applicants are in custody since 25th July 2019. They deserve to be enlarged on bail subject to payment of fine. Hence the following order.

Order

- i) The Criminal Application is allowed.
- ii) The substantive sentence imposed upon the applicant vide judgment and order dated 25th July 2019 passed by Additional Sessions Judge, Kolhapur is hereby suspended.
- iii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000/-each and one or more solvent sureties in the like amount.
- iv) The applicant shall cause his presence before Additional Sessions Judge, Kolhapur once in six

months on the date assigned by the Additional Sessions Judge, Kolhapur.

v) Upon failure to attend any two consecutive dates, the Additional Sessions Judge, Kolhapur shall make report to the High Court and the prosecution would be at liberty to seek cancellation of bail.

vi) The application stands disposed of.

(SMT. SADHANA S. JADHAV, J)