

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPEAL NO. 120 OF 2019

1. Meena W/o. Natthulal Salad,
aged about 35 years, Occu.: Household,
2. Guddi W/o. Laxman Rathod,
Aged about 25 years, Occu.: Household,
3. Kiran @ Sugna W/o. Devilal Solanki,
Aged about 22 years,

All R/o. Shanti Nagar, Nagpur
(All Presently Central Prison at Nagpur.)

.... **APPELLANTS.**

// **VERSUS** //

1. The State of Maharashtra, through
P. S.O., Police Station, Shanti Nagar
Nagpur.
2. Priyanka Meshram,
aged about 26 years, Occu.: Housewife,
R/o. Ramsumer Baba Nagar, Plot No.106,
Shantinagar, Police Station, Shantinagar,
Nagpur.

.... **RESPONDENTS.**

Shri Arjun Bobde, Adv. a/w. Shri R.R.Rajkarne, Advocate for Appellants.
Shri S.S.Doifode, A.P.P. for Respondent No.1.

CORAM : Z.A.HAQ AND M.G.GIRATKAR,JJ.
DATED : DECEMBER 18, 2019.

CRI.APPLN.NO.995/2019.

Heard.

Considering the facts of the case, the order passed by this Court on 1st April 2019 is recalled and the Criminal Appeal is restored.

Criminal Application is **disposed** accordingly.

ORAL ORDER : (PC)

1. Though the record shows appearance of Shri S.D.Tatke, Advocate for the respondent No.2, none appears for the respondent No.2. The learned A.P.P, on instructions, submitted that the notice is not yet served on the respondent No.2.

2. Heard learned Advocate for the appellants and the learned A.P.P for the respondent No.1.

3. **ADMIT.**

4. Shri S.S.Doifode, A.P.P waives notice for the respondent No.1.

5. The appellants are women aged about 35, 25 and 22 years respectively and are in jail, having been arrested in connection with the crime registered against them and others for the offences punishable under

Sections 143, 144, 147, 148, 149, 302, 307, 324 of the Indian Penal Code, Section 4/25 of the Arms Act and Section 135 of the Maharashtra Police Act and Section 3(1) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. The application filed by the appellants seeking directions to the respondent No.1 to release them on bail was rejected by the Sessions Court on 4th February 2019. Against this order the appellants had filed appeal which was disposed by this Court by order dated 1st April 2019, which is as follows :

“After arguing for sometime, learned Advocate for appellants seeks permission to withdraw the appeal. The appeal is dismissed as withdrawn.

Considering the fact that the accused, including women accused are in jail, learned Special Judge is directed to expedite the trial and conclude it in any case, within six months. If the trial is not concluded within six months, the appellants will be at liberty to approach this Court again reiterating the prayer as made in this appeal.”

Now, this Criminal Application is filed by the appellants/ accused as per the liberty which was granted by this Court by order dated 1st April 2019, reiterating their request for directions to the respondent No.1 to release them on bail.

6. According to the appellants, the trial has not commenced as there has been lapses on the part of the respondent/ State. The respondent/ State contends that the trial has not commenced because of the dilatory tactics adopted by the accused.

7. The record shows that as the directions given by this Court by order dated 1st April 2019 regarding completion of the trial could not be complied with, the learned Sessions Judge had sent letter dated 16th October 2019 requesting for extension of time and by order dated 4th November 2019, this Court has extended time till 16th March 2020.

8. Be that as it may, considering the facts of the case, specially that the appellants are in jail since 21st May 2018, the appellant No.2-Guddi Laxman Rathod is having child aged about 2½ years and appellant No.3-Kiran @ Sugna Devilal Solanki is having child aged about 2 years, and the nature of accusations against the appellants, we are of the view that the directions to release the appellants on bail on certain conditions should be issued.

9. Hence, the following order:

- i) The impugned order is set aside.
- ii) The appellant No.1-Meena Natthulal Salad, appellant No.2-Guddi Laxman Rathod and appellant No.3-Kiran @ Sugna Devilal Solanki, having been arrested in connection with Crime No.34 of 2018, registered with the respondent-Police Station, be released on provisional bail on executing PR. Bond for Rupees Twenty Five Thousand each and furnishing two solvent sureties for each of the appellant in the like amount.

- iii) The appellants have undertaken that they will not reside in Shanti Nagar, Nagpur and will be residing at Kharbi, which is at a distance of 6-7 kilometers from Shanti Nagar.
- iv) This order is passed on the undertaking given by the appellants about their residence and if any breach of this order is committed, then this order will be recalled.
- v) The appellants shall attend the criminal trial on every date unless granted exemption by the Sessions Court.
- vi) If any of the appellant fails to attend the criminal trial on any date, without seeking exemption from the Sessions Court, the learned Sessions Judge shall send recommendation to this Court for cancellation of bail of that accused.
- vii) The learned Sessions Judge is reminded of the order passed by this Court on 4th November 2019, according to which the trial has to be completed till 16th March 2020.

List the Criminal Appeal for further consideration/hearing on
20th January 2020.

(M.G.GIRATKAR, J)

(Z.A.HAQ, J)

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