

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**907 CRIMINAL APPLICATION NO. 919 OF 2020
IN APPEAL/274/2020**

SATWA S/O. RAVAN SAUDAGAR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicants : Mr. Kanade Angad L.
APP for Respondent -State : Ms. R. P. Gour.
...

CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 27-11-2020.

PER COURT :

1. Present application has been filed by original accused No.1 to 10 and 20 to 22 for suspension of substantive sentence imposed on them in Sessions Case No.113 of 2012, dated 14-02-2020, by learned Additional Sessions Judge, Parbhani. The applicants have been convicted thus ;

“2. The accused are convicted of the offence punishable under Section 148 r.w.149 of the Indian Penal Code and sentenced to suffer rigorous imprisonment of 15 days and to pay fine of Rs.500/- (Rs.five hundred only) each. In default of payment of fine, the accused shall undergo simple imprisonment for eight days.

3. the accused are convicted of the offence punishable under Section 323 r.w.149 of the Indian Pen al Code and sentenced to suffer rigorous imprisonment of fifteen days and to

pay fine of Rs.500/- (Rs.five hundred only) each. In default of payment of fine, the accused shall undergo simple imprisonment for eight days.

4. The accused are convicted of the offence punishable under Section 324 r.w.149 of the Indian Penal Code and sentenced to suffer rigorous imprisonment of one month and to pay fine of Rs.2,000/- (Rs.two thousand only) each. In default of payment of fine, the accused shall undergo rigorous imprisonment for two months....”

2. Heard both sides.

3. It appears that, there is no independent witness of the incident and the prosecution evidence is based on sole testimony of the victim and circumstantial evidence of other witnesses.

4. When the conviction is based solely on the testimony of the informant and now when the appeal is admitted as arguable points are made, the said testimony is required to be revisited. So also Taking into consideration the fact that, the sentence that has been awarded is a small sentence and accused were on bail throughout the trial, therefore accused deserves to be enlarged on bail. Therefore, in view of the decision in case of *Kiran Kumar v. The State of M.P. (2001) 9 SCC 211*, the substantive sentence deserves to be suspended till final hearing and disposal of the appeal. Hence,

following order.

ORDER

- 1) The application stands allowed.
- 2) The sentence imposed on the applicant / appellant in Sessions Case No.113 of 2012, by learned Additional Sessions Judge, Parbhani, on 14-02-2020 is hereby suspended till the final hearing and disposal of Criminal Appeal No.274 of 2020.
- 3) The applicants/ appellants No.1 Satwa Ravan Saudagar, No.2 Vanya Panesh Chavan, No.3 Suresh Suryabhan Chavan, No.4 Jakarnya Gakhel Chavan, No.5 Janabai Tanaji Gore, No.6 Laxmibai Satwaji Saudagar, No.7 Rajamati Kisan Nitnavare, No.8 Kamalbai Jagan Chavan, No.9 Renuka Jekarnya Chavan, No.10 Jaibai @ Lata Panesh Chavan, No.11 Digambar Trimbakrao Kharabe, No.12 Jagan Suryabhan Chavan and No.13 Trimbakrao Ramrao Kharabe be released on P.R. of Rs.30,000/- each (in words rupees thirty thousand only) with two sureties of Rs.15,000/- each (in words rupees fifteen thousand only).
- 4) Applicants/ appellants shall not commit any criminal activity.
- 5) Applicants/ appellants to remain present before the learned Trial Judge once in six months, till final hearing

and disposal of the appeal, starting from the date they tenders a bail papers and, thereafter, the Trial Judge to fix dates for their subsequent appearances.

6) In case of two consecutive defaults on the part of applicants/appellants to remain present before the Trial Court, the Trial Court to inform this Court about the same, and in that case the prosecution would be at liberty to file an application for cancellation of the bail granted to the applicants/appellants.

7) Bail before Trial Court.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-