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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.755 OF 2021
IN
CRIMINAL REVISION APPLN.NO.48 OF 2021

1) Bhausaheb s/o Bhanudas Kajale
and others. = APPLICANTS

VERSUS

The State of Maharashtra = RESPONDENT/S

Mr.SJ Salunke,Advocate for Applicant/s;

Mr.AM Phule,APP for Respondent-State.

CORAM : SMT.VIBHA KANKANWADI,J.

DATE : 24th March, 2021.

ORAL JUDGMENT / PER COURT :-

1. In this Criminal Application, the applicants, who are the original accused, pray for suspension of substantive sentences and releasing them on bail during pendency and final hearing of Criminal Revision Application.

2. Heard learned Advocate and learned APP appearing for respective parties.

3. The applicants are the original accused Nos.1 to 6, who have been convicted by learned Sessions Judge, Beed, vide judgment and order dated

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9th March, 2021. The applicants have been convicted and sentenced, thus, -

- a) For the offence under Section 147 read with 149 of IPC, to suffer R.I. for one year as well as to pay fine of Rs. 500/- each, I.D., R.I. for one month;
- b) For the offence under Section 325 read with 149 of IPC of, to suffer R.I. for three years and fine of Rs.500/-, I.D., R.I. for one month;
- c) For the offence under Section 506 read with 149 of IPC, to suffer R.I. for two years with fine of Rs. 500/-, I.D., R.I. for one month.
- d) All the above sentences are ordered to run concurrently.
- e) It is further ordered that if fine amount is paid, 50% thereof be paid to the informant towards compensation.

4. It is vehemently submitted on behalf of the applicants that the the impugned judgment and order is perverse. The learned Judge illegally convicted and sentenced the applicants under Section 147 read with 149 of IPC. The learned Judge has exceeded his jurisdiction and thus erroneously proceeded to pass the impugned judgment and order. The learned Sessions Court ought to have enlarged the applicants on bail considering the ages of the applicants, clear antecedents, the

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time undergone since commission of the alleged crime and the circumstances, in which the crime was committed. They have deposited the fine amount. The applicants were on bail during the course of the trial. The Sessions Court has passed the impugned order on assumptions and presumptions. The learned Advocate further submits that the revision involves other legal points/issues, which the applicants/appellants want to agitate and address them at the time of final hearing of the revision and they have every hope of success in the revision. Consequently, the applicants pray for enlarging them on bail by suspending the substantive sentences awarded by the learned Sessions Judge on such terms and conditions as this Court may deem fit and proper.

5. Per contra, learned APP vociferously resisted the application and supported the reasons assigned by the learned Sessions Judge while convicting and imposing the sentences against the applicants. The learned APP submitted that the prosecution evidence is consistent and reliable. Medical certificates, so also seizure of stick and

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chains prove cause and effect of those weapons and injuries caused by the accused persons. The prosecution also proves spot panchanama. All those facts prove the guilt of the accused beyond reasonable doubt and hence they are rightly convicted by the learned Judge. The learned Sessions Judge has properly scanned the evidence brought on record. It is, therefore, submitted that the application being sans merit, deserves to be dismissed and it be dismissed accordingly.

6. As it appears from the impugned judgment of the learned Sessions Judge, particularly the sentences, that have been awarded against the applicants for several offences, are the short-term sentences. In view of the decision in the case of Kiran Kumar Vs. State of M.P. - (2001) 9 SCC 211, benefit will have to be extended to the applicant-appellant when the applicants have demonstrated that the material and significant points raised by them in the revision are required to be considered at the time of final hearing of the revision. Further, the applicants were on bail throughout the trial, have not misused their liberty and they

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had also deposited the fine amount. In view of the matter, it can be said that a case is definitely made out for releasing the applicants on bail by suspending the substantive sentence during pendency and final disposal of the revision. Hence, following order,-

ORDER

i. The Criminal Application stands allowed.

ii. The substantive sentence imposed on the applicants in Criminal Appeal No. 70/2018, by learned Sessions Judge, Beed vide judgment and order dated 9th March, 2021, is hereby suspended till hearing and final disposal of the revision.

iii. The applicants be released on their executing PR and SB of Rs.15,000/- (Rupees fifteen thousand) each.

iv. The applicants shall not commit any criminal activity.

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v. The applicants shall remain present before the learned Trial Judge once in six months, till final hearing and disposal of the revision, commencing from the date they tender bail papers and, thereafter, the Trial Judge to fix dates for their subsequent appearances.

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

vii. Bail before the Trial Court.

(SMT. VIBHA KANKANWADI)
JUDGE