

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

***INTERIM APPLICATION NO. 911 OF 2021
(For Suspension of Sentence)***

IN

CRIMINAL APPEAL NO. 212 OF 2021

Ganesh Vilas Bauchkar

...Applicant

Versus

The State of Maharashtra

...Respondent

WITH

***INTERIM APPLICATION NO. 912 OF 2021
(For Suspension of Sentence)***

IN

CRIMINAL APPEAL NO. 212 OF 2021

Vilas Sakharam Bauchkar

...Applicant

Versus

The State of Maharashtra

...Respondent

WITH

***INTERIM APPLICATION NO. 913 OF 2021
(For Suspension of Sentence)***

IN

CRIMINAL APPEAL NO. 212 OF 2021

Vijay Vilas Bauchkar

...Applicant

Versus

The State of Maharashtra

...Respondent

WITH

***INTERIM APPLICATION NO. 916 OF 2021
(For Suspension of Sentence)***

IN

CRIMINAL APPEAL NO. 212 OF 2021

Avinash Gunga Bauchkar

...Applicant

Versus

The State of Maharashtra

...Respondent

WITH
INTERIM APPLICATION NO. 918 OF 2021
(For Suspension of Sentence)
IN
CRIMINAL APPEAL NO. 212 OF 2021

Nilesh Yuvraj Bauchkar ...Applicant
Versus
The State of Maharashtra ...Respondent

WITH
INTERIM APPLICATION NO. 925 OF 2021
(For Suspension of Sentence)
IN
CRIMINAL APPEAL NO. 212 OF 2021

Yuvraj Sakharam Bauchkar ...Applicant
Versus
The State of Maharashtra ...Respondent

WITH
INTERIM APPLICATION NO. 926 OF 2021
(For Suspension of Sentence)
IN
CRIMINAL APPEAL NO. 212 OF 2021

Tukaram Sakharam Bauchkar ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Niranjana Mundargi a/w Ms. Keral Mehta and Mr. Dheeraj Patil for the Applicant

Mr. S. V. Gavand, A.P.P for the Respondent–State

CORAM : REVATI MOHITE DERE, J.
FRIDAY, 19th MARCH 2021

P.C. :

1 Heard learned Counsel for the parties.

2 By these applications, the applicants seek suspension of their sentences and enlargement on bail, pending the hearing and final disposal of their aforesaid appeal.

3 Vide judgment and order dated 10th February 2021 passed by the learned Additional Sessions Judge, Kolhapur in Sessions Case No.73 of 2013, the applicants alongwith other co-accused have been convicted and sentenced as under :-

- for the offence punishable under Section 143 of the Indian Penal Code, to suffer rigorous imprisonment for six months and to pay fine of Rs.1,000/- each, in default, to undergo further simple imprisonment for 1 month;

- for the offence punishable under Section 147 of the Indian Penal Code, to suffer rigorous imprisonment for 2 years and to pay fine of Rs.2,000/- each, in default, to undergo further simple imprisonment for 2 months;

- for the offence punishable under Section 148 of the Indian Penal Code, to suffer rigorous imprisonment for 3 years and to pay fine of Rs.3,000/- each, in default, to undergo further simple imprisonment for 3 months;
- for the offence punishable under Section 307 r/w Section 149 of the Indian Penal Code, to suffer rigorous imprisonment for 10 years and to pay fine of Rs.5,000/- each, in default, to undergo further simple imprisonment for 6 months;
- for the offence punishable under Section 326 r/w Section 149 of the Indian Penal Code, to suffer rigorous imprisonment for 5 years and to pay fine of Rs.3,000/- each, in default, to undergo further simple imprisonment for 3 months;
- for the offence punishable under Section 324 r/w Section 149 of the Indian Penal Code, to suffer rigorous imprisonment for 2 years and to pay fine of Rs.2,000/- each, in default, to undergo further simple imprisonment for 2 months;

All the substantive sentences were to run concurrently.

4 Learned counsel for the applicants submits that with respect to the incident dated 16th November 2021, the applicants' side had also lodged a complaint which was registered vide C.R. No.70 of 2012 for the alleged offences punishable under Sections 143, 147, 149, 452, 324, 323, 504 of the Indian Penal Code. She submits that PW-1, PW-2 and deceased Rangrao and others were the aggressors. She further submits that the falsity of the prosecution case is evident from the fact that despite Deepak not being present at the spot, he has been falsely implicated in the said case. Learned counsel for the applicants relied on the evidence of DW-1 i.e. the evidence of Deepak's employer in support of her submission. She submits that the applicants were on bail, pending trial and that they have not misused the liberty granted to them. She submits that similarly placed co-accused have been released on bail.

5 Learned APP opposed the application. He, however, does not dispute the fact that the applicants were on bail, pending the trial and that they have not misused their liberty.

6 Perused the papers. With respect to the incident dated 16th November 2012, there is a cross FIR registered at the instance of Sudhatai

Vilas Bauchkar, wife of accused-Vilas Bauchkar. The injuries sustained by PW-1 Krishnat Bauchkar are essentially on the hands. Similarly, the injuries sustained by PW-2 Ramchandra are - (1) Incised wound over left buttock 8cm x 1cm x 1cm muscle deep; (2) Incised wound over posterior aspect of right arm 4cm x ½ cm x ½ cm.; (3) Deep abrasions on right arm; (4) Tenderness over left wrist joint, no bony injury clinically. All the said injuries are stated to be simple injuries. As far as deceased - Rangrao Bauchkar is concerned, he has sustained one grievous injury on the left wrist and simple injuries on the knee occipital region, right arm and supra scapular region. Rangrao is stated to have expired after 15 days of the incident. The cause of death of Rangrao has not come on record. The applicants were on bail pending trial and have not misused the liberty granted to them. The similarly placed co-accused have been released on bail vide order dated 12th March 2020.

7 Considering the aforesaid, the applications are allowed and the applicants' sentences are suspended and they are enlarged on bail, pending the hearing and final disposal of their appeal, on the following terms and conditions :

ORDER

- i) The applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- each, with one or two sureties in the like amount;
- ii) The applicants shall report to the trial Court, once in three months on the day/date specified by the trial Court, till their appeal is finally disposed of;
- iii) The applicants shall keep the trial Court informed of their current addresses and mobile contact numbers and/or change of residence or mobile details, if any, from time to time;
- iv) If there are two consecutive defaults in appearing before the trial Court, the learned Judge shall make a report to the High Court and the prosecution would be at liberty to file an application seeking cancellation of bail.

8 The applications are accordingly disposed of.

9 Learned counsel for the applicants submits that the trial Court is refusing to accept the authenticated copy of this order and as such, seeks a direction to the trial Court to accept authenticated copy of this order.

10 Needless to state that when it is stated that all concerned to act on the authenticated copy of the order, it includes the trial Court and as such, a separate order directing the trial Court to act on the authenticated copy of this order, is not required.

11 All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.