

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 1286 OF 2021
IN
CRIMINAL APPEAL NO. 385 OF 2021

1. Santosh Balkrushna Kadam	
2. Dinesh Balkrushna Kadam	
3. Sunil Balkrushna Kadam	...Applicants
Versus	
State of Maharashtra	...Respondent

Mr. Kushal Mor for the Applicants.

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

CORAM : REVATI MOHITE DERE, J.
DATE : 23rd APRIL, 2021
(Through Video Conferencing)

P.C. :

1. Heard learned Counsel for the parties.
2. By this application, the applicants seek suspension of their sentence and enlargement on bail, pending the hearing and final disposal of their appeal.

3. The applicants, vide judgment and order dated 03/03/2021 passed by the learned Additional Sessions Judge, Thane in Sessions Case No.211 of 2017, have been convicted and sentenced as under:-

- for the offence punishable under Section 353 r/w 34 of the Indian Penal Code, to suffer rigorous imprisonment for 6 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 332 r/w 34 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 3 of the Prevention of Damage to Public Property Act, 1984, to suffer rigorous imprisonment for 1 year and to pay fine of Rs.2,000/- each, in default, to undergo further simple imprisonment for 2 months;

All the substantive sentences were directed to run concurrently.

The applicants were, however acquitted of the offences punishable under Sections 333, 504, 506(ii) r/w 34 of the Indian Penal Code.

4. It is not in dispute that the applicants were on bail, pending trial and that even post their conviction, their sentences have been suspended by the Trial Court. The applicants whilst on bail, have not abused or misused their liberty. The appeal has been admitted by a separate order passed today, in the aforesaid appeal. The sentence is a short term sentence and the appeal is not likely to be heard in the immediate near future. Even otherwise, arguable questions have been raised by the learned Counsel for the applicants.

5. Considering the aforesaid, the application is allowed and the applicants' sentence is 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.20,000/- each with one or two sureties in the like amount;
- ii) The applicants shall report to the trial Court, once in six 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.

6. The application is accordingly disposed of.

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

REVATI MOHITE DERE, J.