

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

**INTERIM APPLICATION NO.1246 OF 2020
IN
CRIMINAL APPEAL NO.51 OF 2020**

Afroz Tasduk Qureshi and Anr. ..Applicants
V/s.
The State of Maharashtra & Ors. ..Respondents

Mr.M.R. Deshpande, for the Applicants.

Mrs.Veera Shinde, APP, for the Respondent-State.

CORAM : C.V. BHADANG, J.

DATE : 21 August 2021

P.C.

. This is an application for suspension of sentence and release of the Applicants (Accused Nos.2 and 3) on bail. This Application is placed before this Bench, in view of the order dated 24 September 2020 passed by this Court (A.S. Gadkari, J.) and the order dated 2 February 2021 passed by this Court (S.K. Shinde, J.). inasmuch as the earlier application being Interim Application No.1 of 2020 filed by the Applicants was withdrawn on 28 August 2020, with liberty to renew the request.

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2. The Applicants along with the co-accused Nos.1 and 4 were prosecuted for the offence punishable under Section 307 and 452 read with Section 34 of the Indian Penal Code and under the Maharashtra Police Act. By the impugned judgment the Applicants have been convicted for the offence punishable under Section 307 for which they have been sentenced to suffer imprisonment for 7 years and to pay a fine of Rs.5,000/- each and in default to suffer further rigorous imprisonment for the period of three months. Under Section 452 of IPC the Applicants have been sentenced to suffer rigorous imprisonment for one year and pay a fine of Rs.1,000/- each and in default to suffer rigorous imprisonment for the period of one month. The Applicants have been acquitted of the offence under the Maharashtra Police Act. It may be mentioned that the Original Accused Nos.1 and 4 expired during the course of the trial.

3. I have heard the learned Counsel for the Applicants and the learned Additional Public Prosecutor. Perused record.

4. As per the prosecution case and the complaint lodged by Sadik Qureshi resident of Parvati Darshan, Pune, he was residing jointly with his brothers Abid and Sabid who were engaged in the business of sale and purchase of cattles. Prior to one month of the

incident, the complainant Sabid started a beef shop at Parvati Darshan Chawl in the rented premises of one Wajid Shaikh. Brother of the complainant namely Abid used to look after that shop. The original Accused No.1 and the present Applicant and the Accused No.4 are residing adjacent to the said shop and they were also engaged in the same business of beef shop. The Applicants and the co-accused are alleged to have objected to the complainant for starting the beef shop in the same area. This incident took place a month prior to the incident in question.

5. On the day of the incident at about 12.15 noon one Arif Rafiq Shaikh came and the complainant was having discussion with him. At that time the Accused No.1 Tasduk (since deceased) armed with iron rod, the Applicant Afroz, armed with sword and Amroz armed with Sattur and Firoz (since deceased) armed with a knife assaulted the complainant. On the basis of such a complaint an offence came to be registered.

6. I have considered the submissions made by the parties. It appears that the Applicants were on bail during the course of the trial and there are no allegations that they have misused the liberty. The Applicants have been sentenced to suffer imprisonment of 7

years. Considering the over all circumstances and the nature of the incident which arose out of business rivalry between the parties, I find that subject to conditions the Applicants can be released on bail. In such circumstances, the following order is passed.

ORDER

(i) The substantive sentence awarded to the Applicants/Accused is hereby suspended pending disposal of the Appeal.

(ii) The Applicants shall be released on bail on executing a P.R. Bond in the sum of Rs.25,000/-each with one or two solvent sureties each in the like amount to the satisfaction of the learned Sessions Judge and to pay fine, if not, already paid.

(iii) The Criminal Application is disposed of in the aforesaid terms.

C.V. BHADANG, J.