

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

**CRIMINAL APPEAL NO. 908 OF 2021
WITH
INTERIM APPLICATION NO. 2684 OF 2021
IN
CRIMINAL APPEAL NO. 908 OF 2021**

1. Archana Kishor Jadhav
2. Sanjay Vasant Jadhav
3. Mayur Arun Khiradkar
v/s.
The State of Maharashtra

.... Appellants/Applicants

.... Respondent

Mrs. Pooja Sejpai a/w. Ms. Akshata Desai i/b. Mr. Nitin Sejpai
for the Appellants.
Mr. N.B. Patil, APP for the State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 22nd NOVEMBER, 2021.

P. C. :-

ORDER IN CRIMINAL APPEAL NO. 908 OF 2021 :-

. Heard. **Admit.** Call for the record and proceedings. Learned APP waives service on behalf of the State. Paper book to be filed within six months from today.

ORDER IN INTERIM APPLICATION NO.2684 OF 2021 :-

2. By this Application filed under section 389 of Cr.P.C., the

Applicants have sought suspension of substantive sentence imposed by judgment dated 29/09/2021 in Sessions Case No.96/2017. By the impugned judgment, the learned Sessions Judge, Nashik has held the Applicants guilty of offence under Section 325 of the Indian Penal Code and sentenced them to undergo five years imprisonment with fine of Rs.1,000/- in default to undergo simple imprisonment for three months.

3. Heard Mrs. Pooja Sejpal, learned counsel for the Applicants, Mr. N.B. Patil, learned APP for the State. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties.

4. The Applicants herein were tried for offences under sections 302, 323, 504, 506 r/w. 34 of the Indian Penal Code. It was the case of the prosecution that between 03/12/2016 11:00 p.m. to 04/12/2016 07:30 p.m., the Applicants with their common intention, caused death of Sushant Bachav by assaulting him with wooden stick, fists and kick blows, etc. The Applicants have also intentionally insulted the complainant by abusing him in filthy words and further criminally intimidating him. The learned Judge, after considering the evidence on

record, held that the death of Sushant was not homicidal and further held that the prosecution has not established that the Applicants were guilty of offence under section 302 of IPC. The Applicants have been held guilty of offence under section 325 of IPC and sentenced to undergo rigorous imprisonment for five years, which is a short term sentence. Considering the large pendency of the cases and also the situation arising from Covid-19 pandemic, it will not be possible to take up the Appeal in immediate future. It is stated that the Applicants were on bail during trial. They have not violated the terms and conditions of the bail. In view of the above and also considering the nature of the accusations and evidence in support thereof, this is a fit case for suspension of substantive sentence pending hearing of the Appeal. Hence, the Interim Application is allowed on following terms and conditions :-

(a) Substantive sentence imposed against the Applicants by judgment dated 29/09/2021 in Sessions Case No.96/2017, is suspended pending hearing of the Appeal ;

(b) The Applicants shall be released on bail on furnishing P.R. Bonds in the sum of Rs.20,000/- each with one or two solvent sureties each in the like amount to the satisfaction of

the Trial Court ;

(c) The Applicants shall report to the Trial Court once in two months on the day/ date specified by the Trial Court, till the Appeal is finally disposed of ;

(d) The Applicants shall keep the trial Court informed of their current address and mobile/contact numbers and/or change of residence or mobile details, if any, from time to time ;

(e) 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 application seeking cancellation of bail.

5. Interim Application stands disposed of accordingly.

**PREETI
H JAYANI**

(SMT. ANUJA PRABHUDESSAI, J.)

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