

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

940 CRIMINAL APPLICATION NO. 1470 OF 2022  
IN APEAL/325/2022

1. USHADEVI @ USHARANI W/O ABHAYSINGH RATHI  
2. NIRAJ W/O PARAMJIT RATHI

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants : Mr. Narayan B. Narwade

APP for Respondent-State : Mrs. P. V. Diggikar

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CORAM : V. K. JADHAV AND

SANDIPKUMAR. C. MORE, JJ.

DATED : 04<sup>th</sup> MAY, 2022

**PER COURT:-**

1. Pending Criminal Appeal No. 325 of 2022 preferred against the judgment and order of conviction dated 16.04.2022 passed by the Additional Sessions Judge, Ahmednagar in Sessions Case No. 303 of 2014, convicting thereby the present to applicants and others for the offence punishable under Section 307 r/w 34 of IPC, Section 324 r/w 34 of IPC and also under the provisions of the Protection of Children from Sexual Offences Act, 2012, the applicants-original accused nos. 5 and 6 have filed the present application for suspension of the sentence and for bail.
2. Learned counsel for the applicants submits that though the

present applicants were tried in the said Sessions Case No. 303 of 2014 along with the other accused persons, however, by the judgment and order of conviction dated 16.04.2022, the learned Additional Sessions Judge, Ahmednagar has convicted the applicants-original accused nos. 5 and 6 for the offence punishable under Section 307 r/w 34 of IPC and sentenced them to suffer rigorous imprisonment for three years and to pay fine of Rs.3,000/- each, in default, to suffer rigorous imprisonment for three months each. The learned Additional Sessions Judge, Ahmednagar has further convicted the present applicants for the offence punishable under Section 324 r/w 34 of IPC and sentenced them to suffer rigorous imprisonment for one year and to pay fine of Rs.1,000/- each, in default to suffer rigorous imprisonment for one month each.

3. Learned counsel further submits that on 16.04.2022 itself, the applicants-original accused nos. 5 and 6 have filed application Exhibit 239 before the trial court for bail and accordingly, by order dated 16.04.2022 passed below Exhibit 239, the trial court has suspended the sentence as against the applicants-original accused nos. 5 and 6 till 13.05.2022 to file appeal subject to furnishing of Personal Bond and Surety Bond of Rs.15,000/-. Learned counsel submits that the applicants-original accused nos. 5 and 6 were on bail during trial.

4. Learned APP submits that appropriate order may be passed.

5. Thus, considering the conviction and sentence passed against the applicants-original accused nos. 5 and 6 and since they were on bail during trial, we proceed to pass the following order:

ORDER

I. The Criminal Application is hereby allowed.

II. The substantive part of the sentence passed by the Additional Sessions Judge, Ahmednagar on 16.04.2022 in Sessions Case No. 303 of 2014 stands suspended till disposal of Criminal Appeal No. 325 of 2022 and till then the applicants (1) USHADEVI @ USHARANI W/O ABHAYSINGH RATHI (original accused no.5) and (2) NIRAJ W/O PARAMJIT RATHI (original accused no.6) be released on bail on furnishing P.B. of Rs.15,000/- each with one surety each of the like amount. Bail before the lower court.

III. The Criminal Application is accordingly disposed off.

(SANDIPKUMAR C. MORE, J.)

(V. K. JADHAV, J.)