

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

918 CRIMINAL APPLICATION NO.1851 OF 2022
IN
CRIMINAL APPEAL NO.424 OF 2022

BHAGWAT LAXMAN KADAM AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA

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Mr. V.R. Dhorde, Advocate for applicants

Mr. S.P. Deshmukh, APP for the sole respondent

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 16th JUNE, 2022

PER COURT :

1 Present application has been filed for suspension of sentence.

2 The prosecution story is that a procession was taken out on 14.04.2018 on the occasion of birth anniversary of Dr. Babasaheb Ambedkar at village Borgaon, Tq. Hadgaon, Dist. Nanded. According to the informant, it was found that accused Nos.16, 17 and 18 were taking photographs or making video recording on their mobiles in respect of the girls and ladies who were taking part in the procession. It was objected. However, they told

that they were not recording. It is then stated that a scuffle took place. It was later on joined by accused Nos.1 to 6, 9 to 15 and 19.

3 It will not be out of place to mention here that the learned Special Judge under the Atrocities Act has held the appellants guilty of committing offence under Section 143, 147, 148, 295, 323, 324, 504 read with Section 149 of the Indian Penal Code, 1860 and under Section 3(1)(r) and 3(1)(t) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, thus -

2) Accused Nos.1 to 19 namely 1) Bhagwat Laxman Kadam, 2) Abhay @ Akshay Prabhakar Solanke, 3) Abhilash Shivaji Solanke, 4) Ashish Shivaji Solanke, 5) Vikas @ Vivekanand Panjabrao Solanke, 6) Sadanand Panjabrao Solanke, 7) Umesh Bhimrao Solanke, 8) Gajanan Venkati Solanke, 9) Amol Rajaram Solanke, 10) Sharad Rajaram Solanke, 11) Akshay @ Akash Pandurang Hendre, 12) Shyam Kashinath Solanke, 13) Suraj Dattrao Chandrawanshi, 14) Nagesh Bhimrao Deshmukh, 15) Pandit Ganpatrao Solanke, 16) Gajanan Marotrao Solanke, 17) Omkar Raosaheb Kadam, 18) Swapnil Ramesh Kadam and 19) Devanand Panjabrao Solanke are convicted under Section 235(2) of the Code of Criminal Procedure of the commission of offences punishable under Sections 143, 147, 148, 295, 323, 324, 504 read with Section 149 of the Indian Penal Code and for the commission of offences under Section 3(1)(r) and 3(1)(t) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

- 3) Accused Nos.1 to 19 are hereby sentenced to suffer rigorous imprisonment for a period of six months and fine of Rs.1,000/- each for the offence punishable under Section 323 read with Section 149 of the Indian Penal Code, in default of payment of fine, they shall undergo rigorous imprisonment for a period of one month.
- 4) Accused Nos.1 to 19 are hereby sentenced to suffer rigorous imprisonment for a period of two years and fine of Rs.2,000/- each for the offence punishable under Section 324 read with Section 149 of the Indian Penal Code, in default of payment of fine, they shall undergo rigorous imprisonment for a period of three months.
- 5) Accused Nos.1 to 19 are hereby sentenced to suffer rigorous imprisonment for a period of two years and fine of Rs.2,000/- each for the offence punishable under Section 295 read with Section 149 of the Indian Penal Code, in default of payment of fine, they shall undergo rigorous imprisonment for a period of three months.
- 6) Accused No.1 to 19 are hereby sentenced to suffer rigorous imprisonment for a period of six months and fine of Rs.1,000/- each for the offence punishable under Section 143 read with Section 149 of the Indian Penal Code, in default of payment of fine, they shall undergo rigorous imprisonment for a period of one month.
- 7) Accused Nos.1 to 19 are hereby sentenced to suffer rigorous imprisonment for a period of six months and fine of Rs.1,000/- each for the offence punishable under Section 147 read with Section 149 of the Indian Penal Code, in default of payment of fine, they shall undergo rigorous imprisonment for a period of one month.
- 8) Accused Nos.1 to 19 are hereby sentenced to suffer rigorous

imprisonment for a period of six months and fine of Rs.1,000/- each for the offence punishable under Section 148 read with Section 149 of the Indian Penal Code, in default of payment of fine, they shall undergo rigorous imprisonment for a period of one month.

9) Accused Nos.1 to 19 are hereby sentenced to suffer rigorous imprisonment for a period of six months and fine of Rs.1,000/- each for the offence punishable under Section 504 read with Section 149 of the Indian Penal Code, in default of payment of fine, they shall undergo rigorous imprisonment for a period of one month.

10) Accused Nos.1 to 19 are hereby sentenced to suffer rigorous imprisonment for a period of three years and fine of Rs.5,000/- each for the offence punishable under Section 3(1)(r) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 read with Section 149 of the Indian Penal Code, in default of payment of fine, they shall undergo rigorous imprisonment for a period of four months.

11) Accused Nos.1 to 19 are hereby sentenced to suffer rigorous imprisonment for a period of three years and fine of Rs.5,000/- each for the offence punishable under Section 3(1)(t) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 read with Section 149 of the Indian Penal Code, in default of payment of fine, they shall undergo rigorous imprisonment for a period of four months.

At the same time, all of them have been acquitted of the offence punishable under Section 506 read with Section 149 of the Indian Penal Code, 1860 and under Section 3(1)(s) of the of the Scheduled Castes and

Scheduled Tribes (Prevention of Atrocities) Act, 1989.

4 The learned APP has strongly opposed the application on the ground that after considering the entire evidence on record the conviction has been awarded. The act of the appellants was detrimental to the sentiments of the members of the Scheduled Castes and, therefore, the conviction has been rightly awarded, which does not require suspension.

5 The maximum sentence that has been awarded is three years. It is less likely that the appeal would be heard in the near future and in view of **Kiran Kumar vs. State of M.P, (2001) 9 SCC 211**, the sentence deserves to be suspended till the appeal is heard. Hence, the following order.

ORDER

1 Application stands allowed and disposed of.

2 The substantive sentence awarded against the applicants/ appellants under Special Atrocity Case No.26/2018 by learned Special Judge/ Additional Sessions Judge, Nanded (Court No.2) on 19.03.2022 stands suspended till the final hearing and disposal of Criminal Appeal No.424 of 2022.

3 All the applicants viz. 1) Bhagwat Laxman Kadam, 2) Abhay @ Akshay Prabhakar Solanke, 3) Abhilash Shivaji Solanke, 4) Ashish Shivaji Solanke, 5) Vikas @ Vivekanand Panjabrao Solanke, 6) Sadanand Panjabrao Solanke, 7) Umesh Bhimrao Solanke, 8) Gajanan Venkati Solanke, 9) Amol Rajaram Solanke, 10) Sharad Rajaram Solanke, 11) Akshay @ Akash Pandurang Hendre, 12) Shyam Kashinath Solanke, 13) Suraj Dattrao Chandrawanshi, 14) Nagesh Bhimrao Deshmukh, 15) Pandit Ganpatrao Solanke, 16) Gajanan Marotrao Solanke, 17) Omkar Raosaheb Kadam, 18) Swapnil Ramesh Kadam and 19) Devanand Panjabrao Solanke, be released on P.R. and S.B. of Rs.15,000/- (Rupees Fifteen Thousand only) each.

4 The applicants shall not commit any criminal activity.

5 The applicants shall remain present before the learned Trial Judge once in six months, till final hearing and disposal of the appeal, commencing from the date they tender bail papers and thereafter, the Trial Judge to fix dates for their subsequent appearances.

6 In case of two consecutive defaults on the part of the applicants to remain present before the Trial Court, the Trial Court to inform this Court about the same and in that eventuality, the prosecution would be at liberty to file an application for cancellation of the bail granted to the applicants.

7 Bail before the Trial Court.

(Smt. Vibha Kankanwadi, J.)

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