

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO. 1647 OF 2022
IN
CRIMINAL APPEAL NO. 364 OF 2022**

Samadhan Balbhim Badde ..APPLICANT

VERSUS

State of Maharashtra and Another ..RESPONDENTS

**WITH
CRIMINAL APPLICATION NO. 2914 OF 2022
IN
CRIMINAL APPEAL NO. 724 OF 2022**

Balaji Gangadhar Kopanbayane ..APPLICANT

VERSUS

State of Maharashtra ..RESPONDENT

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Mr. H.I. Pathan, Advocate for applicant in APPLN/1647/2022

Mr. R.D. Biradar, Advocate for applicant in APPLN/2914/2022

Mr. R.B. Bagul, A.P.P. for respondent no.1 – State

Ms. R.B. Ghule, Advocate for respondent no.2 in APPLN/1647/2022

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**CORAM : R.G. AVACHAT AND
R.M. JOSHI, JJ**

DATE : 20th OCTOBER, 2022

PER COURT :

1. Heard.

2. Prima facie perusal of record shows that the conviction is based on solitary statement of the informant, who is widow of the deceased, and recovery of stone at the instance of Accused No.1. Statement of the

informant shows that Accused No.1 used to threaten her husband i.e. deceased to kill him. In spite of same, it is her further statement that on the date of incident, both the accused came and fetch her husband on the pretext of going for purchasing fish. On the next day dead body of the deceased was found. It is only after funeral was done, the F.I.R. seems to be lodged.

3. There is substance in the contention of the applicants that if there was threat to the life of the deceased from Accused No.1, it does not stand to any reason as to why the deceased went along with him and co-accused. Conduct of the informant of even not making enquiry of his husband not returning home entire night shows that she never suspected the applicants. As far as recovery of stone is concerned, there is nothing on record to connect the same with the alleged incident. Applicant - Samadhan Balbhim Badde was on bail during trial. Call Data Record of the applicants is not produced on record.

4. In these circumstances, prima facie case is made out by the applicants for suspension of sentence and enlargement on bail. We, therefore, inclined to allow the application as under :-

ORDER

- (i) Criminal applications are allowed in terms of prayer clause (B).

(ii) Pending the appeals, the substantive sentences of imprisonment imposed by the trial Court are suspended. The applicants be released on bail on executing P.R. bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) each with one surety in the like amount.

(iii) Bail before the trial Court.

(iv) Fees of Ms. R.B. Ghule, learned counsel, is quantified to Rs.6,000/- (Rupees Six Thousand).

(R.M. JOSHI, J.)

(R.G. AVACHAT, J.)

SSD