

1. Heard learned counsel for the applicants and learned APP for the State.
2. It is an unfortunate that the applicants Govinda Jangalya Deshmukh and Gotya Appa Bilare have been behind bars for four years only due to the mistake of the similar name. The applicant Gotya Appa Bilare had approached this Court seeking bail vide Bail Application No.748 of 2019. This Court passed the order on

14.08.2019 and granted leave to withdraw the application and trial was directed to be expedited. On the same day, the Court also passed order in Bail Application No.746 of 2019 with Bail Application No.774 of 2019 arising out of the same crime. In the said order, it has been observed that on going through the allegations made in the complaint and on perusal of the charge sheet, it appears that eye witnesses have taken the names of co-accused persons whose applications seeking bail came to be withdrawn today.

3. Learned counsel for the applicants would submit that all 28 witnesses have been examined. None of the witnesses have deposed against the present applicants. That apart in the charge sheet, the role attributed to these applicants were that they were obstructing the police from entering in the village panchayat premises. However, due to the mistake in the order dated 14.08.2019, they have been held to be the main assailant. He has rightly pointed out that there is one another person having similar name Gotya Motiram Choudhari against whom there are direct allegations of assaulting the deceased. Due to this mistake and the poverty of the applicants, they are in jail since 2018. The Court has verified the facts and satisfied that this applicant Gotya Appa Bilare is not the person who assaulted the deceased. None of the eye witnesses stated in their statement before the police that both the applicants were the assailants. Similarly situated accused have been released on bail by

this Court. Since last four years, the trial is going on and yet not concluded. However, the poor applicants remained behind bars.

4. The mistake committed by the lawyer while withdrawing their earlier bail application before this Court needs to be corrected. There is no strong evidence against the applicants showing their active role in committing the crime. In view of that matter, they deserve bail. As far as applicant Surjya Dehlya Bhavare is concerned, he was refused the bail by the Sessions Court in 2018. However, he did not approached this Court for bail. Since 2018 he is behind bars. Learned counsel for the applicants would submit that he was not named in the FIR nor there was a evidence against him that he has played the active role. But he is languishing in jail since last four years. In that view of matter, he is also entitled to the bail. Hence, the following order :

ORDER

- (i) Bail Applications are allowed.
- (ii) The applicants, Govinda Jangalya Deshmukh in Bail Application No.1630 of 2022 and (1) Gotya Appa Bilare (2) Surjya Dehlya Bhavare in Bail Application No.1560 of 2022, be released on bail on executing P.B. and S.B. of Rs.15,000/- (Rupees Fifteen Thousand) each with one surety in the like amount in connection with Crime No.74/2018, registered at Pimpalner Police Station, District Dhule for the offences punishable under Sections 302, 143, 144, 147, 148, 149,

341, 336, 342, 353, 332, 363, 364, 427, 506 of the Indian Penal Code and under Section 3 of the Prevention of Damage of Public Property Act, on the condition that they shall not tamper with the prosecution evidence.

(S.G. MEHARE, J.)

Mujaheed//