

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

933 CRIMINAL APPLICATION NO.3866 OF 2022

IN REVN/337/2022

DR. SALEHA KAUSAR W/O. ABDUL SALIM
VERSUS
THE STATE OF MAHARASHTRA

AND

934 CRIMINAL APPLICATION NO.3877 OF 2022

IN REVN/338/2022

MOHAMMED IMRAN S/O. MOHAMMAD BASHIR GANDHI
VERSUS
THE STATE OF MAHARASHTRA

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Advocates for Applicants : Mr. Zia Ul Mustafa, Mr. Sayyed
Tauseef Yaseen, respectively.

APPs for Respondent-State : Ms. V. S. Choudhari, Mr. S. B.
Narwade, respectively.

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CORAM : S. G. MEHARE, J.

DATE : 22.11.2022

PER COURT :-

1. Heard the learned counsels for the applicants and learned APPs for the respondent-State.
2. Learned counsels for the applicants would argue that the findings recorded by both the Courts are against the provisions of law. They have not breached the provisions of the Maharashtra Medical Practitioners Act. Applicant Saleha is a

Medical Practitioner having a degree of MBBS and running 61 years of age. Applicant Mohd. Imran has a Diploma in Medical Laboratory Technician. They have good case on merit. The legal provisions have not been properly interpreted by both the Courts. The prosecution evidence was not sufficient to hold the applicants guilty. The fine amounts have been deposited.

3. After the dismissal of their appeals, they have been taken in custody. Therefore, the corporal sentence may be suspended till the conclusion of the revision applications and they may be released on bail.

4. Perused the impugned orders. There appears grounds for argument in the revision applications. The legal issue as to the applicability of the provisions of the Maharashtra Medical Practitioners Act, 1961 has been involved. The applicants are the Medical Practitioners and Technician by profession. The powers under Section 389 of the Cr.PC. may be exercised in this case. Hence, the following order :

ORDER

- (i) Both Criminal Applications are allowed.
- (ii) The sentence to suffer R.I. for six (6) months imposed by learned Chief Judicial Magistrate,

Parbhani in RCC.No.521 of 2010, dated 20.09.2016 and confirmed by the learned Additional Sessions Judge, Parbhani by its order dated 17.11.2022 passed in Criminal Appeal Nos.57 of 2016 and 58 of 2016 stand suspended till the conclusion of the criminal revision applications.

- (iii) Both applicants be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) each with one solvent surety of the like amount each.
- (iv) Bail before the learned Additional Sessions Judge, Parbhani.

(S. G. MEHARE, J.)

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vmk/-