

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3995 OF 2022 IN
CRIMINAL APPEAL NO. 911 OF 2022

1. Ramprasad Bhimrao Gadade
2. Ashabai Ramprasad Gadade Applicants

Versus

The State of Maharashtra Respondent

Mr. S. J. Salunke, Advocate for the applicants.

Mr. S. P. Deshmukh, APP for the State.

Mr. G. D. Kale, Advocate holding for Mr. M. V. Nagargoje, Advocate for respondent.

CORAM : R. G. AVACHAT &
R. M. JOSHI, JJ.

DATE : 23rd DECEMBER, 2022.

PER COURT :

1. Heard.

2. Learned advocate for the applicants states that applicant No. 1 is aged about 80 years and appellant No. 2 is a woman and they were on bail during trial. By referring to the evidence on record, it is contended that applicants have good case on merit and hence they be enlarged on bail.

3. Learned APP and learned counsel for the informant opposed for grant of suspension of substantive sentence by referring to the evidence on record which according to him, shows that the incident occurred in three different stages which is sufficient to infer the intention of the applicants.

4. Prima facie consideration of material on record shows that one of the witnesses has claimed that a stone was pelted at deceased by applicant No. 2 which caused head injury. There is inconsistent version of other witnesses about hitting by stone by applicant No. 2. Applicant No. 1 had sustained injury and the said assault as indicated by the medical certificate on record. Prosecution witnesses have also admitted that the deceased was in drunken condition at the relevant time.

5. Having regard to the facts and circumstances, we are of the view that the applicants have good case in order to bring down the severity of the offence from Section 302 to Section 304 of the Indian Penal Code. Since they were on bail during the period of trial, we are inclined to suspend their substantive sentence. Hence the order :-

ORDER

- I) Application is allowed.
- ii) Pending appeal, substantive sentence imposed against the applicants is suspended.
- lii) Both the applicants be released on their furnishing PR Bond of Rs.15,000/- each with one solvent surety each in the like amount.
- iv) Bail before the trial Court.

(R. M. JOSHI)
Judge

(R. G. AVACHAT)
Judge

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