

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

**CRIMINAL APPLICATION NO. 4246 OF 2022
IN
CRIMINAL APPEAL NO. 959 OF 2022**

1. Krishna Ashok Parkhe
2. Ramdas Dhondiba Parkhe
3. Vikram Madhukar Parkhe
4. Kailas Mohan Parkhe
5. Arun Yadav Parkhe
6. Sitaram Madhukar Parkhe .. Applicants

Versus

The State of Maharashtra .. Respondent

Mr. Sohail Subhedar, Advocate h/f Mr. Nilesh S. Ghanekar, Advocate for the Applicants.

Mr. S. W. Munde, APP for Respondent.

CORAM : KISHORE C. SANT, J.

DATED : 22nd DECEMBER, 2022.

P C. :-

1. The applicants have filed appeal challenging the judgment and order dated 28.11.2022 passed by the learned Special Court SC & ST (POA) Act, Aurangabad in Sessions Case No. 01/2014. The applicants are held guilty of the offences punishable under Sections 143, 147, 323 r/w Section 149, Section 324 r/w Section 149 of the Indian Penal Code

(for short "I.P.C."). They are acquitted of the offences punishable under Sections 148, 307, 326, 504, 506 of the I.P.C. and Section 3 (1) (x) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989. The maximum sentence imposed is to suffer rigorous imprisonment for one (01) year and to pay fine of Rs. 5,000/- (Rs. Five Thousand only) and in default to suffer further rigorous imprisonment for one(01) month. All the sentences are directed to run concurrently. The present application is filed for suspension of sentence and to release the applicants on bail.

2. It is submitted that the accused persons were on bail during the trial. All the applicants have now paid the amount of fine in the learned Trial Court. Their sentence is also suspended till appeal period by the learned Trial Court on 28.11.2022 itself.

3. Considering the fact that, the maximum sentence is of only one (01) year and fine amount is already deposited and further that the applicant Nos. 1 to 5 were in jail during the trial from 30.09.2019 to 21.10.2013 and were later on released on bail, this Court finds that their sentence needs to be suspended till the appeal period. Hence, the following order.

ORDER

(I) The Criminal Application No. 4246/2022 is allowed.

(II) The substantive sentence awarded by the learned Special Judge by order dated 28.11.2022 in Sessions Case No. 01/2014 shall remain suspended till the appeal period.

(III) The criminal application is disposed off.

(KISHORE C. SANT, J.)

PS.B.