

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION (APPA) NO. 274 OF 2019****IN****CRIMINAL APPEAL NO. 295 OF 2019**

1. Vikas Rakhmaji Dhende &
2. Santosh Kundalik Dhende ... Applicants/Appellants

V/s.

1. The State of Maharashtra &
2. Pramod Husain Dhende ... Respondents

Ms.Vrushali L. Maindad for Applicants/Appellant.

Ms.S.D. Shinde, A.P.P. for Respondent-State.

**CORAM : A. S. GADKARI AND
PRAKASH D. NAIK, JJ.**

DATE : 21st November 2022.

PC. :

1. This is an application for suspension of sentence and releasing the Applicants on bail.

2. Heard Ms.Maindad, learned Advocate for Applicants and Ms.Shinde, learned A.P.P. for Respondent-State. Perused record.

3. Applicants are Original Applicant Nos.1 and 3.

It is the prosecution case that, due to the disputes and quarrels over the landed property between Applicants on one side and deceased and

his relatives on the other side, on 20th February 2016, at about 7.00 pm, when the informant – Pramod (PW-1) and Ashok (deceased) were proceeding on a motorcycle, the accused persons accosted them and asked them, as to whether the deceased was prepared to give their share in 22 acres of land. PW-1 and deceased expressed their dissatisfaction as to the complaint case made by Mr.Husain and they started assaulting deceased and PW-1. That, the Applicants, i.e. Accused Nos.1 & 3, assaulted Ashok (deceased) with fist and kick blows, however Accused No.2 Deepak and Accused No.4 Balaji assaulted PW-1 and Ashok (deceased) with stones. In the said attack Ashok (deceased) sustained serious injuries and collapsed on the ground. The informant-Pramod (PW-1) sustained injuries on nostrils and lips. When Pramod (PW-1) started shouting for help, all the accused persons fled from the scene of offence on their motorcycle.

4. Perusal of evidence of Pramod (PW-1) reveals that, the Applicants/Appellants assaulted deceased with fist and kick blows, however the other two accused persons assaulted with stones. Evidence of Dr.Tushar V. Gaikwad (PW-6) indicates that, the deceased suffered following three injuries.

- (a) CLW-8 x 1 cm – bone deep on left parietal region scalp.
- (b) Fracture on mandible at left antero – lateral aspect.
- (c) Contusion with abrasion – 3 x 3 cm – on left side of chin.

PW-6 has opined that Ashok had died due to cardio-respiratory

arrest due to shock due to head injury. That the head injury might have been sustained due to the stone shown to him.

5. Record further indicates that, the Applicants were on bail during the pendency of the trial and on the date of pronouncement of the impugned Judgment and Order dated 30th January 2019, they have been taken into custody. Learned Advocate for Applicants submitted that, there are no antecedents at the discredit of the Applicants.

6. In view of the above, during the pendency of the present Appeal, the substantive sentence imposed upon the Applicants can be suspended and they can be released on bail.

Hence the following Order :

- (i) During the pendency of the present Appeal, the substantive sentence imposed upon the Applicants is suspended.
- (ii) During the pendency of the Appeal, the Applicants be released on bail on their furnishing PR bond in the sum of Rs.25,000/- each with one or two separate solvent sureties in the like amount.
- (iii) After their release from Jail and during the pendency of the present Appeal, the Applicants shall attend Karmala Police Station, District Solapur on every first Monday of the month between 10:00 am and 12:00 noon initially for a period of one year.

After end of one year, the Applicants shall attend Karmala Police Station, District Solapur on every first Monday of the every 3rd Month between 10:00 am and 12:00 noon. The Applicants

thus shall attend Karmala Police Station four times in a year during the pendency of the present Appeal.

- (iv) Applicants shall not contact informant or other material witnesses, when on bail, in the present Appeal.

7. Application is allowed in the aforesaid terms.

[PRAKASH D. NAIK, J.]

[A.S. GADKARI, J.]