

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 1601 OF 2022

IN

CRIMINAL APPEAL NO. 539 OF 2022

Dilawar Rajak Makandar And Ors.

... Applicants

V/s.

The State of Maharashtra

... Respondent

Mr. Satyavrat Joshi i/b Mr. Sanay Pawar for Applicants.

Mr. R. M. Pethe, APP for Respondent-State.

CORAM : A.S. GADKARI, J.

DATE : 9th June 2022.

PC. :

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

2. Applicants are convicted under Sections 353 and 332 read with Section 34 of the Indian Penal Code (for short, "IPC") and are sentenced to suffer maximum rigorous imprisonment of two years and to pay total fine of Rs.3,000/- each by the learned Additional Sessions Judge, Kolhapur in Sessions Case No.286 of 2019, by its Judgment and Order dated 25th April 2022.

3. Mr. Joshi, learned Advocate for Applicants submitted that, the

Applicants have already deposited entire fine amount in the Registry of the Trial Court. He submitted that, during the pendency of the trial, Applicants were released on bail and there is no report of breach of any of the bail conditions imposed upon them. He submitted that, as a matter of fact after pronouncement of the impugned Judgment and Order, the Trial Court has suspended sentence to enable the Applicants to prefer an Appeal as contemplated under Section 389 (3) of the Criminal Procedure Code.

4. The maximum sentence imposed upon the Applicants is of two years. The possibility of hearing the present Appeal on its own merits in near future is remote. As noted earlier, the Applicants were on bail during the pendency of trial and there is no report of commission of breach of any of the bail conditions, imposed upon them. In view thereof, during the pendency of the Appeal, the substantive sentence imposed upon the Applicants can be suspended and they can be released on bail.

6. Hence, the following Order :-

- (i) Applicants be released on bail in Sessions Case No.286 of 2019, arising out of C.R. No. 194 of 2018 registered with Shahupuri Police Station, on their furnishing P.R. bond of Rs.25,000/- each with one or two separate solvent local sureties in the same amount.

- (ii) During the pendency of the Appeal, Applicants are directed to attend Shahapuri Police Station on every first Monday of the month initially for a period of 1 year and thereafter on every first Monday of every 3rd month, i.e. 4 times in a year.
- (v) During the pendency of the Appeal, Applicants shall not tamper or pressurise the prosecution witnesses for withdrawal or compromising the case lodged by the informant.

7. Application is allowed in the aforesaid terms.

[A.S. GADKARI, J.]