

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION NO.982 OF 2019****IN****CRIMINAL APPEAL NO.865 OF 2019**

1. Sikandar Ashok Shinde &]
2. Rani Sikandar Shinde]Applicants/ Appellants

Vs.

The State Of Maharashtra]Respondent

Ms.Vilasini Balasubramanian i/by. Mr.Jaydeep Mane for the Applicants /Appellants.

Mr. H. J. Dedhia, APP for the Respondent-State.

**CORAM : A. S. GADKARI AND
RAJESH S. PATIL, JJ.**

DATE : 22nd JULY, 2022.

P.C.:-

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

2. Applicants have been convicted for the offence punishable under Sections 302 read with 34 of The Indian Penal Code (for short, "I.P.C.") and are sentenced to suffer life imprisonment and to pay fine of Rs.500/- each, in default of payment of fine to further undergo rigorous imprisonment for three months, by the learned Additional Sessions Judge,

Solapur, in Sessions Case No.285 of 2018 by its Judgment and Order dated 17th May, 2019.

3. Perusal of evidence of Vasant Shinde (PW-1), brother and Smt. Seemabai Ashok Shinde (PW-3), wife of deceased Ashok Shinde indicates that, on the date of incident, initially a quarrel took place on account of Applicant No.2 intending to withdraw the case filed by her under the provision of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 and under Section 376 of I.P.C. against some persons in the village, to which deceased Ashok Shinde objected by saying that, it was the prestige issue and the Applicant No.2 should not withdraw the cases. At that time, Applicant No.1 questioned his father Ashok Shinde (deceased) as to why he always interposes in their affairs. Deceased Ashok Shinde was therefore preparing to assault on Applicant No.2. Applicant No.1 therefore assaulted Ashok Shinde (deceased) on his head with a wooden club which was lying thereof. Applicant No.2 also picked up a brick lying thereof and hit on the head of Ashok Shinde (deceased). Ashok Shinde (deceased) collapsed in a pool of blood.

The testimony of the said two eye-witnesses *prima facie* indicates that, the offence alleged against the Applicants may fall within the purview of Section 304(II) and may not be punishable under Section 302 of I.P.C..

4. Record indicates that, Applicant No.1 has undergone four years of incarceration, whereas Applicant No.2 was on bail during the pendency of trial and there is no report of breach of any condition imposed on her.

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

6. Hence, the following Order :-

(i) Applicants/Accused be released on bail in Sessions Case No.285 of 2018 on their furnishing P.R. bond of Rs.25,000/- each, with one or two separate local sureties in the like amount.

(ii) After their release from jail and till final disposal of present Appeal, Applicants are directed to attend Mohol Police Station, District Solapur 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.

7. Application is allowed in the aforesaid terms.

(RAJESH S. PATIL, J.)

(A.S. GADKARI, J.)