

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 2577 OF 2022
IN
CRIMINAL APPEAL NO. 773 OF 2022**

Mahesh Ashok Shinde & Ors.	..Applicants
Versus	
The State of Maharashtra	..Respondent

Mr. Harshad Bhadbhade a/w. Arya Sapre for Appellants.
Smt. J. S. Lohokare, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 4th AUGUST 2022

PC :

1. The Applicants are convicted and sentenced as under:
 - i) For commission of offence punishable U/s.323 r/w. 149 of IPC, applicants were sentenced to suffer S.I. for six months and to pay a fine of Rs.1000/- each and in default to suffer S.I. for one month.
 - ii) For commission of offence punishable U/s.143 of IPC applicants were sentenced to suffer S.I. for six months and to pay a fine of Rs.5000/- each and in

default to suffer S.I. for one month.

iii) For commission of offence punishable U/s.147 of IPC applicants were sentenced to suffer S.I. for six months and to pay a fine of Rs.5000/- each and in default to suffer S.I. for one month.

2. All the substantive sentences are directed to run concurrently.

3. Learned counsel for the applicants states that the fine amount totaling to Rs.44000/- is already paid by the applicants.

4. The prosecution case is that, the deceased Dayanand was uncle of one Chinmay. According to the applicants, this Chinmay was harassing a girl from the accused's family by sending her telephonic messages.

5. On 09/02/2017, the applicants went to the house of informant and complained about Chinmay to his family. In the evening, Chinmay himself, his father, the deceased Dayanand and others went to the house of accused. There was quarrel. It is

alleged that, all the applicants started beating Chinmay with kicks and fist blows. Ramchandra and Dayanand intervened to save Chinmay, but they were also beaten. It is the prosecution case that, Dayanand was beaten on his chest and stomach with kicks and fist blows. Due to this, Dayanand sustained severe injuries. He was shifted to the Government Hospital at Chanderai and then at Civil hospital, Ratnagiri, but he was declared dead. C.R.No.22 of 2017 was registered at Ratnagiri Rural police station U/s.302 and other sections of IPC. At the time of the trial, though, Charge was framed U/s.304 of IPC, but the conviction was recorded as above. They were convicted for much lesser offences.

6. Learned counsel for the applicant invited my attention to the observations made in the impugned Judgment, wherein, it is observed that the death was not likely because of such injury. The Medical Officer had clarified that the contusion injury mentioned in Column No.20 of the Postmortem report was simple injury. Learned Judge had recorded a finding that, there was nothing on record to show that, death of Dayanand was homicidal. It was observed that, death was not due to injury but was due to the

previous chronic illness of the deceased. Applicants were also held guilty for causing hurt to witnesses. The applicants are sentenced for maximum period of 6 months. The Appeal is not likely to be heard within that period. Considering this aspect, the applicants have made out a case for their release on bail during pendency and final disposal of Appeal.

7. Hence, the following order:

O R D E R

- i) During pendency and final disposal of Criminal Appeal No.773 of 2022, the applicants are directed to be released on bail on furnishing P.R. bonds in the sum of Rs.30000/- each with one or two sureties each in the like amount.
- ii) The Interim Application is disposed of.

(SARANG V. KOTWAL, J.)