

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.794 OF 2022

IN

CRIMINAL APPEAL NO.247 OF 2022

1) RAKESH MADHUKAR JADHAV	)
	)
2) SHARAD @ DIGAMBAR BABAN	)
NAGARE	)
	)
3) ANIRUDDHA DHONDU SHINDE	)
	)
4) LAXMAN CHHABU GUMBADE	)
@ BADSHAHA	)
	)
5) DEEPAK BHASKAR BHALERAU	)...APPLICANTS

V/s.

THE STATE OF MAHARASHTRA	)...RESPONDENT
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Mr. Arvind Singh a/w. Ms.Angela Singha, Ms.A. Mishra i/by. SBG Law, Advocate for the Applicant in I.A.No.794 of 2022.

Mr. A. R Kapadnis, APP for the Respondent - State.

**CORAM : REVATI MOHITE DERE &
V. G. BISHT, JJ.**

DATE : 22nd JUNE 2022

P.C. :

1 Heard the learned counsel for the parties.

2 By this application, the applicants seek suspension of their sentence and enlargement on bail pending the hearing and final disposal of the aforesaid appeal.

3 The applicants, alongwith other co-accused, vide judgment and order dated 29th January 2022 passed by learned Sessions Judge, Nashik in Sessions Case No.77 of 2013, have been convicted and sentenced as under :

- for the offence punishable under Section 302 r/w. Section 149 of Indian Penal Code, 1860, to suffer imprisonment for life and to pay fine of Rupees 1000/- each, in default to suffer rigorous imprisonment for two months each.

- for the offence punishable under Section 326 r/w. Section 149 of the Indian Penal Code, 1860, to suffer rigorous imprisonment for seven years and to pay fine of Rupees 5000/- each, in default to suffer rigorous imprisonment for six months.
- for offence punishable under Section 143 of Indian Penal Code, 1860, to suffer rigorous imprisonment for six months and to pay fine of Rupees 500/- each and in default to suffer rigorous imprisonment for one month.
- for offence punishable under Section 147 of Indian Penal Code, 1860, to suffer rigorous imprisonment for six months and to pay fine of Rupees 500/- each and in default to suffer rigorous imprisonment for one month.
- for offence punishable under Section 148 of Indian Penal Code, 1860, to suffer rigorous imprisonment for six months and to pay fine of Rupees 500/- each and in default to suffer rigorous imprisonment for one month.

- for offence punishable under Section 135 of the Bombay Police Act, to suffer rigorous imprisonment for six months and to pay fine of Rupees 500/- each and in default to suffer rigorous imprisonment for one month.

4 Perused the papers.

4 It appears that the incident in question had taken place on 7th December 2011, at about 10.00 p.m. In the said incident, it is alleged that the applicants alongwith co-accused assaulted Rahul Shejwal (deceased), Arvind Bhadange (complainant), Pramod and Pankaj with deadly weapons. The First Information Report (FIR) was lodged on 8th December 2011 as against unknown persons. It appears that the applicants were arrested in connection with the said offence on 19th December 2011 (applicant nos.1 and 2), 26th December 2011 (applicant no.3), 10th January 2012 (applicant no.4) and 9th July 2012 (applicant no.5). According to the eye witnesses/injured, the accused including the applicants were known to them. The statement of PW13-Pramod was recorded on

11th December 2011. It appears that PW13-Pramod was present with PW1-Arvind (complainant) when the FIR was lodged, however, PW1-Arvind has not named the applicants or any other accused in the said case. It appears that only in the supplementary statement which was recorded on 11th December 2011, that PW1-Arvind named the applicants and other co-accused for the first time.

5 The motive for the alleged assault is not clear from the evidence that has come on record. There are several discrepancies in the evidence of the eye witnesses/injured. The applicants were on bail pending trial and there is nothing to indicate that the applicants have misused or abused their liberty whilst on bail. The appeal has been admitted vide order dated 14th June 2022 and the same is likely to take some time, before it is heard.

6 Considering the aforesaid, the application is allowed and the sentence of applicants are suspended and they are enlarged on bail pending the hearing and final disposal of their appeal, on the following terms and conditions :

ORDER

- i) The applicants be enlarged on bail on furnishing P.R.Bond in the sum of Rs.25,000/- each, with one or two sureties in the like amount by each of them.
- ii) The applicants shall report to the trial Court, once in three months on the day/date specified by the trial Court, till their appeal is finally disposed of;
- iii) The applicants shall keep the trial Court informed of their current address and mobile contact number and/or change of residence or mobile details, if any, from time to time;
- iv) If there are two consecutive defaults in appearing before the trial Court, the learned Judge shall make a report to the High Court and the prosecution would be at liberty to file an application seeking cancellation of bail.

7 The application is allowed in the aforesaid terms and is accordingly disposed of.

8 All concerned to act on the authenticated copy of this order.

(V. G. BISHT, J.)

(REVATI MOHITE DERE, J.)

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