

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

**CRIMINAL INTERIM APPLICATION NO.1224 OF 2022
IN
CRIMINAL APPEAL NO.386 OF 2022**

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|----|---------------------------------|---------------------------|
| 1) | Sampat Sambhaji Dhaigude; |] |
| 2) | Ganpat Sambhaji Dhaigude; |] |
| 3) | Ramesh Bhanudas Dhaigude; |] |
| 4) | Rahul Vitthal Dhaigude; |] |
| 5) | Vitthal Sakharam Dhaigude; |] |
| 6) | Sambhaji Sakharam Dhaigude; |] |
| 7) | Bhanudas Sakharam Dhaigude; and |] |
| 8) | Popat Sakharam Dhaigude |] ..Applicants/Appellants |

Versus

State of Maharashtra	]	.. Respondent
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Mr.Kuldeep S. Patil i/b. Mr.Prashant S. Hagare, Advocate for the Applicants/Appellants.

Mr.S.V. Gavand, APP for the Respondent – State.

P.N. Pokale, Walchand Nagar Police Station, Mumbai, present.

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CORAM : PRAKASH D. NAIK, J.

DATED : APRIL 27, 2022.

P.C. :

This is an application for suspension of sentence and grant of bail during the pendency of criminal Appeal No.386 of 2022.

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2 The applicants are convicted *vide* judgment and order dated 29th March, 2022, passed by Additional Sessions Judge, Baramati, District-Pune, in Sessions Case No.57 of 2012, for the offence punishable under Section 326 of Indian Penal Code (“IPC”, for short) and sentenced to suffer imprisonment of five years. They were also convicted for the offence punishable under Sections 325, 324, 148 read with 149 of IPC, and, sentenced to suffer imprisonment of three years, one year and six months each, respectively, for the aforesaid offences.

3 The applicants were acquitted for the offence punishable under Section 307 of IPC.

4 The prosecution case is that there is dispute between the parties relating to the agricultural land. The proceedings in that regard are pending before the Collector and the Civil Court. The accused had allegedly assaulted the injured persons by weapons like sticks, iron rod, spades etc. The injured persons suffered injuries and the FIR was registered. On completing investigation, charge-sheet was filed.

5 Learned advocate for the applicants submitted that the

applicants were on bail during the trial. They are in custody from the date of conviction. Several persons were implicated in this case on account of dispute over the property. The medical evidence is contrary to the ocular evidence. There is no corroborative evidence to substantiate the alleged assault by axe. Some of the applicants senior citizens. Applicant Nos.6, 7 and 8 are aged about 76, 63 and 66 years. During the trial, while on bail, the applicants have not misused the faculty of bail. The sentence is of short term.

6 Learned APP submitted that specific role has been attributed to the applicant. Their convictions are on the basis of oral and medical evidence. The accused has assaulted the injured persons with weapons. Injured persons had suffered serious injuries.

7 It is not disputed that the applicants were on bail during trial. There is no adverse record of misuse of the facility of bail granted to them. Some of the applicants are senior citizens. On account of property dispute, it is alleged that the injured persons were assaulted by the applicants. Several issues are raised about the discrepancies and the evidence. The sentence is of short term. The Appeal may not reach for hearing within short span of time. Hence, case for suspension of sentence and grant of bail is made out.

8 Hence, I pass the following order:

:: ORDER ::

- (i) Interim Application No.1224 of 2022, is allowed of;
- (ii) The sentence of imprisonment imposed *vide* judgment and order dated 29th March, 2022, passed by the Additional Sessions Judge, Baramati, District-Pune, in Sessions Case No.57 of 2012, is suspended, and the applicants are directed to be released on bail on executing P.R. Bond in the sum of Rs.20,000/-, each, with one or more sureties in the like amount;
- (iii) Applicant Nos.1 to 5 shall attend the trial Court once in six months on first Saturday of the month between 11:00 a.m. to 01.00 p.m., till disposal of the Appeal;
- (vi) Interim Application No.1224 of 2022, stands disposed of accordingly.

(PRAKASH D. NAIK, J.)