

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

**CRIMINAL APPLICATION NO. 282 OF 2019
IN
CRIMINAL REVISION APPLICATION NO. 277 OF 2019**

1. Hardip Singh Jogindarsingh Ozala
2. Harjeet Kaur Balbinder Gill ...Applicants

Versus

The State Of Maharashtra ...Respondent

....

Mr. Nitin Sejpai a/w Ms. Akshata B. Desai, Advocate for the Applicants.

Mr. S. R. Agarkar, APP for the Respondent – State.

Mr. Sanjay L. Aspatwar, (P.S.I.) CBD Belapur Police Station, Navi
Mumbai, Present.

CORAM : PRAKASH D. NAIK, J.
DATE : 22nd JUNE, 2022.

PER COURT:

1. This is an application for suspension of sentence and grant of bail pending Criminal Revision Application No.277 of 2019.

2. The applicants were prosecuted for offence punishable under Section 307 of Indian Penal Code (for short “IPC”). Vide judgment and order dated 31st March, 2011 passed by learned Assistant Sessions Judge, Thane, the applicants were convicted for offence punishable under Section 307 of IPC and sentenced to suffer imprisonment of seven years. The conviction was confirmed by

the Sessions Court vide order dated 15th May, 2019.

3. Learned counsel for the applicant submitted that during the trial the applicants were not on bail, however, during the pendency of appeal challenging the judgment of conviction, the applicants were granted bail. On the date of dismissal of appeal the applicants were taken in custody and thus from 15th May, 2019, they are in custody. They have undergone sentence of about 4 years. The judgment of the trial Court and the appellate Court suffers from serious discrepancies. The evidence on record indicate that the applicants are falsely implicated in this case. The history recorded by the Medical Officer indicate that it was the suicidal attempt by the victim. The facility of bail has not been misused by the applicants.

4. Learned APP submits that there are two concurrent findings of two Courts against the applicants. The trial Court has considering the evidence on record while convicting the applicants.

5. It is pertinent to note that the applicants were on bail during the pendency of appeal and there is no adverse report about the misuse of facility of bail. The applicants have urged that there are several discrepancies in the prosecution case. They are in custody for a period of about 4 years. The revision application preferred by

the applicants is already admitted by this Court and its pending for final disposal. Substantial imprisonment has been undergone by the applicants and there are no chances that the revision application would be heard immediately.

5. In the light of the aforesaid circumstances and considering the facts that the applicants are in custody for the aforesaid period, the application for suspension of sentence and grant of bail can be allowed.

6. Hence, I pass the following order:

ORDER

- i. Criminal Application No. 282 of 2019 is allowed and disposed of;
- ii. The sentence of imprisonment imposed vide Judgment and order dated 31st March, 2011 passed by learned Assistant Sessions Judge in Sessions Case No.385 of 2009 and confirmed by judgment and order dated 15th May, 2019 passed by learned District Judge, Thane, in Criminal Appeal No.47 of 2011 is suspended and the applicants are directed to be released on bail on executing PR. Bond in the sum of Rs.25,000/- each with one or more sureties in the like amount;
- iii. The applicants are permitted to furnish cash bail in the sum of Rs.25,000/- each for a period of eight weeks in lieu of surety;

iv. The applicants shall attend the trial Court once in six months on first Saturday of the month till the final disposal of the appeal;

v. In the event of two defaults in attending the trial Court, the said fact may be brought to the notice of this Court by the concerned Court.

(PRAKASH D. NAIK, J.)