

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

**INTERIM APPLICATION NO. 4399 OF 2022  
IN  
CRIMINAL APPEAL NO. 1257 OF 2022**

Surekha Shantaram Bijitkar & Anr.

..Applicants

Versus

The State of Maharashtra & Anr.

..Respondents

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Mr. Rakesh Bhatkar a/w. Mr. Mohan N. Devkule a/w. Mr. Mohit Dalvi, Advocate for the Applicants.

Mr. S. R. Agarkar, APP for State/Respondent No.1.

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**CORAM : SARANG V. KOTWAL, J.  
DATE : 21<sup>st</sup> DECEMBER, 2022**

**PC :**

1. This is an Application for bail during pendency and final disposal of the Criminal Appeal No.1257 of 2022 filed by the Applicants challenging the order dated 29.11.2022 passed by the Additional Session Judge, Ratnagiri in Special Case No.24 of 2021. The Applicants were the accused Nos. 1 and 2 before the trial Court. At the conclusion of the trial, both of them were convicted for commission of offence punishable under Sections 304(A) and

337 of the Indian Penal Code as well as under Section 75 of Juvenile Justice (Care and Protection of Children) Act, 2015. The major punishment imposed on them was for three years besides imposition of fine.

2. The prosecution case is that the Appellant No.1 was superintendent and the Appellant No.2 was the caretaker of Late Smt. Janakibai Tendulkar Mahilashram Lanja, Dist. Ratnagiri. On 27.02.2020 one of the boys aged around 6 years hit a 2 and half year old child by taking her out of the cradle. The incident was captured on C.C.TV. footage. The prosecution case is that, it was responsibility of both these Applicants to take care of all the children in that Mahilashram.

3. Learned counsel for the Applicants submitted that the superintendent/Applicant No.1 was present in the office. Though she was in-charge of the over all superintendence, she could not remain present in every room. The Applicant No.2 had gone out for a short while to bring water for the children. He submitted that though the incident is unfortunate, there was no negligence on the

part of both the Applicants. The organization did not have adequate staff and therefore, the Applicants needed to look after too many responsibilities. He submitted that no offence is made out against the Applicants. Learned counsel further submitted that the Applicants were on bail during trial. They have not misused that liberty. They were granted bail under Section 389 of the Code of Criminal Procedure; even after their conviction for a temporary period. Both of them are ladies and do not have criminal antecedents.

4. Learned APP opposed this Application on merits. However, he conceded that the sentence is short.

5. I have considered these submissions. Some arguable points are raised by the learned counsel for the Applicants. They will have to be decided at the final hearing stage. The Applicants were on bail during trial. The sentence is short. The Appeal is not likely to be decided within that period. Therefore, both the Applicants can be granted bail, pending final disposal of the Appeal.

6. Hence, the following order:

O R D E R

- i) During pendency and final disposal of Criminal Appeal No.1257 of 2022, the Applicants are directed to be released on bail on their furnishing P. R. bond in the sum of Rs.30000/- each, with one or two sureties each in the like amount.
- ii) The Application is disposed of.

**(SARANG V. KOTWAL, J.)**