

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 242 OF 2023
IN REVISION APPLICATION NO.15 OF 2023

VITTHAL KESHAVRAO SHAHANE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicants : Mr. Mohit R. Deshmukh
APP for Respondent : Mr. S. P. Deshmukh

CORAM : S. G. MEHARE, J.

DATE : 13-01-2023

PER COURT :-

1. Heard the learned counsel for the applicants.
2. Issue notice to the respondent, returnable forthwith.
3. The learned A.P.P. waives service of notice for the respondent.
4. The applicants were convicted for the offence punishable under Section 324 read with Section 34 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for two years. In appeal, order of the learned trial Court was confirmed, but sentence has been reduced to rigorous imprisonment for one year and the fine.
5. The learned counsel for the applicants would submit that the applicants have a good case on merit. The learned trial Court as well as appellate Court did not consider the various factual and legal aspects. The evidence to prove the charges was lacking, it was not properly appreciated. The applicants never misused the

bail on dismissal of the appeal they were taken into custody and they are behind bar. The applicants have grounds to argue in the revision. Hence, substantive sentence may be suspended.

6. The learned A.P.P. opposed the application. He would argue that two concurrent findings are well reasoned. Apparently, there is no error in recording the conviction. Hence, sentence may not be suspended.

7. Perused the impugned orders. The applicants appear to have grounds to argue in the matter. The sentence is liable to be suspended till the decision of the revision. Hence, the following order :-

- i) The application is allowed.
- ii) The substantive sentence imposed against the applicants by the learned Judicial Magistrate First Class, Nanded, in RCC No.398 of 2008, dated 02.04.2012, to suffer rigorous imprisonment for two years and fine amount and modified by the learned Additional Sessions Judge, Nanded, in Criminal Appeal No. 44 of 2012, dated 06.01.2023, to suffer rigorous imprisonment for one year, is suspended till the disposal of the revision.
- iii) The applicants be released on bail, on furnishing PB and SB of Rs.50,000/- each, with one solvent surety of the like amount.
- iv) Bail before the appellate Court.

**(S. G. MEHARE)
JUDGE**