

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO.496 OF 2023
IN REVN/28/2023**

**RUPESH GOKUL BHALERAO AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

...

Advocate for Applicants : Mr. Ade Ravindra B.
APP for Respondent/State : Mr. K.S. Patil

...

CORAM : S.G. MEHARE, J.

DATED : FEBRUARY 02, 2023

PER COURT:-

1. Learned counsel for the applicants would submit that the learned Judicial Magistrate First Class, Chopda, District Jalgaon had convicted the applicants for the offence punishable under Section 392, 323 read with 34 of the Indian Penal Code. However, the Appellate Court acquitted them for the said offences and sentenced them to suffer R.I. for six months for the offence punishable under Section 385 read with 34 of the Indian Penal Code. On the date of dismissal of the appeal, the accused have been taken into custody. He would argue that the evidence was not sufficient to held the applicants guilty. The legal issues have been involved in this case. The applicants have a good case on merit. Therefore, the sentence may be suspended and they may be released on bail.

(2)

2. Learned APP has opposed the application. He would argue that the order sentencing the applicants for the offence punishable under Section 385 of the Indian Penal Code is legal and proper. The applicants have no grounds for argument.

3. Perused the impugned orders. There appears a ground for argument. Hence, the following order :

ORDER

- (i) Application is allowed.
- (ii) The execution of the sentence imposed by the learned District Judge-2, Amalner in Criminal Appeal No.6 of 2018 dated 30.01.2023, is suspended till the conclusion of the revision application.
- (iii) The applicants be released on bail on executing P.B. and S.B. of Rs.50,000/- each with one solvent surety of the like amount.
- (iv) Issue notice to the respondents, returnable on 09.03.2023. Learned APP waives service of notice for the State.
- (v) Bail before the learned District Judge, 2, Amalner.
- (vi) Call Record and Proceedings.

(S.G. MEHARE, J.)