

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

**933 CRIMINAL APPLICATION NO.937 OF 2023
IN APEAL/195/2023
WITH
APEAL/195/2023**

Khandu Vishwanath Kamble.

...Applicant

VERSUS

1. The State of Maharashtra.
2. Vijay Sanjay Kalbande.

...Respondents

...
Advocate for Applicants : Mr.Salunke Sheetal Vilas
APP for Respondents-State : Mr.K.N.Lokhande

...

AND

**934 CRIMINAL APPLICATION NO.1013 OF 2023
IN APEAL/223/2023 WITH APEAL/223/2023**

Laxman s/o Baliram Dhawale.

...Applicant

VERSUS

1. The State of Maharashtra.
2. Angad s/o Dharan Kamble.

...Respondents.

...
Advocate for Applicant : Sushant Baburao Choudhari
APP for respondent-State : Mr. K.N.Lokhande

...

CORAM : R. G. AVACHAT, J.

DATE : 17.03.2023.

PER COURT :

1. Admit.
2. Call Record and proceedings.
3. Issue notice to the respondents/State. The learned APP waives service of notice for respondents-State.
4. The applicants have been convicted for the offence punishable 396 of the Indian Penal Code and sentenced to suffer imprisonment for 10 years. Both the applicants are in jail, for little over for 2 years.
5. As per the case of the prosecution, there were five culprits including the present applicants. They had come together and took away a small Pickup van, wherein the deceased and the driver of the vehicle were there. As per the case of the prosecution, 2 of the 5 convicts took the deceased to the back portion of the vehicle and while the vehicle was on its way, both of them assaulted and threw him down the vehicle, as result of which he succumbed to the injuries.
6. On the basis of the evidence on record, it is just difficult to identify who are those 2 out of 5 convicts to be responsible to the death of the deceased. The appeal is not likely to be heard in near future. In view of the same, the application is granted in terms of the following order :

ORDER

- (a) The application is allowed.
- (b) Pending the appeal, the execution of substantive sentences of imprisonment imposed upon the applicants by the learned Additional Sessions Judge, Osmanabad in Sessions Case No. 02 of 2019, by the judgment and order dated 08.09.2022, to stand suspended and the applicants be released on bail on their executing P.R. bonds in the sum of Rs.15,000/- (Rupees Fifteen Thousand) each with one surety each in the like amount on the conditions that
 - (i) The applicants shall appear before the investigating officer, as and when required for the investigating purpose.
 - (ii) The applicants shall not tamper with the prosecution evidence.

(R. G. AVACHAT)
JUDGE

mahajansb/