

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

**CRIMINAL APPLICATION NO.1041 OF 2023
IN REVN/83/2023**

**MAHENDRA @ NANA ONKAR KUMAVAT AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA**

...

Advocate for Applicants : Mr. S.S. Gangakhedkar h/f Mr. Deshmukh
Mahesh S.

APP for Respondent/State : Mr. K.S. Patil

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CORAM : S.G. MEHARE, J.

DATED : MARCH 16, 2023

PER COURT:-

1. Heard learned counsel for the applicants and learned APP for the State.
2. The applicants were convicted for the offence punishable under Section 326, 323 and 325 of the Indian Penal Code. However, the learned Additional Sessions Judge, Jalgaon in Criminal Appeal No.133 of 2019 dated 08.03.2023 set aside the judgment of conviction under Section 326 and maintained the conviction under Section 323 and 325 of the Indian Penal Code. Soon after the judgment was pronounced, the applicants were sent to jail for the execution of sentence. They are languishing in jail.
3. Learned counsel for the applicants would argue that the applicants have a good case on merit. The evidence has not been

properly appreciated. Hence till the conclusion of the trial, the sentence may be suspended.

4. Per contra, the learned APP would submit that there are two concurrent judgments of conviction against the applicants. There are no arguable points in revision. Hence, the sentence may not be suspended.

5. Perused the impugned judgments and orders. Considering the nature of dispute and the appreciation of evidence, the applicants appear to have a ground to raise in the revision. There were no complaints of misuse of the bail granted to the applicants. They deserve suspension of sentence under Section 389 of Criminal Procedure Code. Hence, the following order :

ORDER

- (i) Application is allowed.
- (ii) The execution of the sentence to suffer RI for one year for the offence punishable under Section 325 and SI for two months for the offence punishable under Section 323 of the Indian Penal Code passed by the learned Judicial Magistrate First Class, Court No.3, Chalisgaon in RCC No.10/2010 dated 08.11.2019 and confirming the sentence for the offence punishable under the same Sections by the learned Additional Sessions Judge, Jalgaon in Criminal Appeal No.133 of 2019 by judgment dated 08.03.2023, is suspended till the conclusion of the revision.

(3)

(iii) The applicants shall be released on bail on executing P.B. and S.B. of Rs.50,000/- each with one solvent surety of the like amount each.

(iv) Bail before the learned Additional Sessions Judge, Jalgaon.

(v) Issue notice to the State. Learned APP waives service of notice for the State.

(vi) Call Record and Proceedings.

(vii) List the revision application after summer vacation.

(S.G. MEHARE, J.)