

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.1229 OF 2023
IN REVISION APPLICATION NO.100 OF 2023

SHAIKH BABU SHAIKH ABDUL AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicants : Mr. Vaibhav B. Kulkarni
APP for Respondent : Mr. K. S. Patil
...

CORAM : S. G. MEHARE, J.

DATE : 29-03-2023

PER COURT :-

1. Heard the learned counsel for the applicants.
2. Issue notice to the respondent.
3. The learned A.P.P. waives service of notice for the respondent/State.
4. The judgment of conviction passed by the learned Judicial Magistrate, First Class, Court No.2, Bhadgaon, District Jalgaon, has been confirmed by the learned Additional Sessions Judge, Jalgaon. The applicants were taken into custody and sent to the jail for execution of the sentence. The applicants were convicted for the offence punishable under Sections 323 and 326 read with Section 34 of the Indian Penal Code and were sentenced to suffer simple imprisonment for three months and one year and fine of Rs.500/- and Rs.1000/- each, respectively.
5. The learned counsel for the applicants state that the fine amount was deposited. He would argue that the evidence has not

been properly appreciated. Therefore, both Courts have committed error of law in holding the applicants guilty. The applicants have good case on merit. They never misused the liberty granted to them during the trial and appeal. Hence, the sentence may be suspended.

6. Perused the judgments and orders of both Courts. The applicants appear to have good grounds for hearing the revision. There were no complaints of jumping bail against the applicants. Therefore, they deserve suspension of sentence under Section 389 of the Code of Criminal Procedure. Hence, the order :-

- i) The application is allowed.
- ii) The execution of sentence to suffer simple imprisonment for one year for the offence punishable under Section 326 read with Section 34 of the Indian Penal Code and simple imprisonment for three months for the offence punishable under Section 323 of the Indian Penal Code imposed by the learned Judicial Magistrate First Class, Court No.2, Bhadgaon, District Jalgaon, in R.C.C.No.59 of 2015 dated 18.12.2019 and confirmed by the learned Additional Sessions Judge, Jalgaon, in Criminal Appeal No. 10 of 2020, dated 10.03.2023, is suspended till the conclusion of the revision.
- iii) The applicants are released on bail on executing PB and SB of Rs.15,000/- each, with one solvent surety of the like amount.
- iv) Bail before the learned Additional Sessions Judge, Jalgaon.

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