

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

CRIMINAL APPLICATION NO. 1388 OF 2023
IN
CRIMINAL REVISION APPLICATION NO.114 OF 2023

SHAIKH FAROOK SHAIKH MEHMOOD AHMED SAB
VERSUS
THE STATE OF MAHARASHTRA

AND
CRIMINAL APPLICATION NO. 1389 OF 2023
IN
CRIMINAL REVISION APPLICATION NO. 115 OF 2022
SHAIKH MASTAN SHAIKH MAULA
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. U. B. Bilolikar
APP for Respondent: Mr. S. P. Deshmukh
.....

CORAM : S. G. MEHARE, J.

DATE : 06.04.2023

PER COURT :

1. Heard the learned counsel for the applicants and the learned A.P.P for respondent-State.

2. The learned counsel for the applicants would submits that the applicants have good case on merit. The legal issues have been involved in the matters. The defence of the applicants has not been properly appreciated. They never misused the bail granted to them. Hence, sentence

may be suspended.

3. The learned A.P.P. would opposed the applications, contending that two Courts have recorded the convictions. There is no mistake or error on the face of the record in the impugned judgments. Hence, the applicants are not entitled to suspension of the sentence.

4. Perused the impugned judgments. The applicants appear to have a good case on merits and points to argue in the revision applications. There were no complaints against the applicants that they had misused the liberty granted to them by way of bail during the trial and the appeal. They have already surrendered their bail bonds. In the facts and circumstances of the case the discretion under Section 389 of the Code of Criminal Procedure may be exercised. Hence, the following order :

ORDER

- (i) Both the applications are allowed.
- (ii) The execution of the sentence to suffer rigorous imprisonment for two years for the offence punishable under Section 379 read with Section 34 of the Indian Penal Code

imposed by the learned Judicial Magistrate, F.C. Dharmabad in Regular Criminal Case No. 11 of 2016 and confirmed by the learned Additional Sessions Judge, Biloli by common judgment in Criminal Appeal No. 15 of 2017 and 16 of 2017 dated 31.07.2017 is suspended till the conclusion of the revision application.

(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 Sessions Judge, Biloli.

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

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