

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

918 CRIMINAL APPLICATION NO. 1914 OF 2023
IN CRIMINAL APPEAL NO.454 OF 2023

GANGADHAR BABAJI PHALKE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Mr. A.S. More – Advocate for Applicants
Mr. R.B. Bagul – APP for Respondent No.1, State
Mr. S.A. Nagode – Advocate for Respondent No.2

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CORAM : SANDIPKUMAR C. MORE, J.

DATE : 23rd August, 2023

PER COURT :

1. Heard rival submissions.

2. This Application is filed for suspension of substantial sentence of imprisonment by the present applicants, who admittedly are convicted by the learned Additional Sessions Judge, Ahmednagar, on 27.04.2023 in Special Case No. 582 of 2020 for the offences punishable under Sections 354 – B, 447 and 504 of Indian Penal Code. It appears that, only fine is imposed upon the appellant No.1, Gangadhar Babaji Phalke for the offence punishable under Sections 447 and 504 of

Indian Penal Code, which he has already paid. So far as appellant No.2 is concerned he is sentenced to suffer R.I. for three years alongwith fine under Section 354 – B of Indian Penal Code. He has also paid the fine amount.

3. Learned A.P.P. and learned Counsel representing respondent No.2 – victim strongly opposed the application on the ground that, the learned Trial Court on evaluation of evidence has properly convicted the appellants – accused.

4. However, the learned Counsel for the appellants pointed out that, the appellants were already on bail during the pendency of the trial before the Trial Court. Moreover, the Trial Court had also released them on bail after their conviction. There is interim relief granted by this Court during the pendency of this application. Considering all these aspects, following order is passed :-

ORDER

(a) Application is hereby allowed.

(b) The substantial sentence of imprisonment

awarded to present appellant No. 2 – Balkrishna Pandharinath Khandave by the learned Additional Sessions Judge, Ahmednagar in Special Case No. 582 of 2020 on 27.04.2023 is hereby suspended during the pendency of the appeal and the appellants are continued to be released on same condition, as granted by the learned Trial Court. However, they are directed to furnish fresh bail bonds before the learned Trial Court.

(c) Criminal Application is accordingly disposed of.

**[SANDIPKUMAR C. MORE]
JUDGE**