

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.1930 OF 2023
IN APEAL/462/2023 WITH APEAL/462/2023

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|----|--------------------------------------|----|------------|
| 1. | Latabai Santosh Sonawane, | | |
| 2. | Butabai Pintu @ Rajendra Chandanshiv | .. | Applicants |
| | Versus | | |
| | The State of Maharashtra | .. | Respondent |

Advocate for Applicants : Mr. Deepak D. Choudhari
APP for Respondent : Ms. V. N. Patil Jadhav

CORAM : S. G. MEHARE, J.

DATE : 24-07-2023

PER COURT :-

1. Leave granted to correct the name and address of applicant No.1. Amendment be carried out forthwith.
2. Heard the learned counsel for the applicant and the learned A.P.P. for the respondent/State.
3. By the present application, the applicants are seeking suspension of sentence imposed upon them to suffer rigorous imprisonment for five years for the offence punishable under Section 366 read with Section 34 of the Indian Penal Code, by the learned Additional Sessions Judge, Jalgaon, in Sessions Case No.327 of 2019 dated 28.04.2023.

4. The learned counsel for the applicants would submit that the evidence to hold the accused guilty was insufficient. Their role allegedly attributed in the crime was not properly appreciated. The applicants have been acquitted from the main offence of committing sexual assault. It is a short term sentence. There were no previous conviction against the applicants. They are permanent residents of Mhaswad, District Jalgaon.

5. The learned A.P.P. would submit that *prima facie* there was involvement of the applicants. They were indulging in the similar activities. For the first time, they have been arraigned as an accused. The victim woman has been victimized with the assistance of another woman. The offence has been proved against the applicants. There is no scope to reappraise the evidence. Hence, the application may be rejected.

6. Perused the impugned judgment and order. Its a short term sentence. Both applicants are women having no previous conviction or any crime registered against them. Considering their profession, possibility of implicating them falsely cannot be ruled out. The victim was a minor. So, considering the over all facts and the facts of the case, applicants are entitled to suspension of sentence. Hence, the order:-

i) Application is allowed.

- ii) The execution, implementation, effect and operation of the sentence imposed upon the applicants to suffer rigorous imprisonment for five years for the offence punishable under Section 366 read with Section 34 of the Indian Penal Code, in Sessions Case No.327 of 2019 by the learned Additional Sessions Judge, Jalgaon on 28.04.2023, is suspended till conclusion of the appeal.
- iii) Applicants Nos. (1) Latabai Santosh Sonawane and (2) Butabai Pintu @ Rajendra Chandanshiv, be released on bail, on furnishing P.B. and S.B. of Rs.50,000/- each, with one solvent surety of like amount.
- iv) Bail before the learned Additional Sessions Judge at Jalgaon.
- v) List the appeal on 21.08.2023.

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

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