

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

**CRIMINAL APPLICATION NO.2167 OF 2023
IN
CRIMINAL APPEAL NO.393 OF 2023**

**SMT. MANGAL SAINATH SALVE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA**

...

Mr. Joydeep Chatterji, Advocate for applicants
Mr. S.D. Ghayal, APP for respondent

...

**CORAM : SMT. VIBHA KANKANWADI
ABHAY S. WAGHWASE, JJ.**

DATE : 20th SEPTEMBER, 2023

ORDER :

1 Not on board. Taken on board. Mentioned.

2 Present application has been filed for suspension of substantive sentence imposed upon the applicants. The applicants are the original accused who have been convicted in Sessions Case No.24/2017 by learned Additional Sessions Judge, Shrirampur, Dist. Ahmednagar on 09.05.2018 after holding them guilty of offence punishable under Sections 302, 504, 506 read with Section 34 of the Indian Penal Code and under Section 120-B of

the Indian Penal Code.

3 Heard learned Advocate Mr. Joydeep Chatterji for the applicants and learned APP Mr. S.D. Ghayal for the respondent.

4 We would like to say that by a detailed order passed by this Court on 25.07.2018 the earlier application for suspension of sentence has been rejected on merits. Under such circumstance, the second application for suspension of sentence is not maintainable on the same grounds. It has been tried to be contended that the applicants/appellants are ladies and are in jail since long and paper book is also ready. Therefore, the matter needs to be heard urgently or the sentence be suspended.

5 We would like to make it very clear that this Court is presently dealing with the jail appeals of the year 2016-2017. Some of the jail appeals of 2018 are also being listed, however, we are going chronologically. Within a short period we may take up this matter also, but no special circumstance has been pointed out, so that the queue should be disturbed. Hence, the application stands **rejected**.

6 At the same time, we have seen the record and it appears that respondent Nos.2 and 3 came to be added in view of order passed by this

Court on 19.07.2018. They appeared to be the parents of victim i.e. deceased, to whom the compensation has been awarded by the trial Court under Section 357(3) of the Code of Criminal Procedure. Notice was issued to them and it appears that report has been received that notice is served to respondent Nos.2 and 3, but no signature appears to be obtained on the notice form. If the notice was served on them, then how the copy of the appeal memo was not given to them, is also a question. This cannot be taken as a proper service and it appears that the learned Joint Civil Judge Junior Division, Rahata, Dist. Ahmednagar had not paid attention, as to whether the notice is properly served or not. Under the said circumstance, we direct re-issuance of notice to respondent Nos.2 and 3, to be made returnable on 19.10.2023.

(ABHAY S. WAGHWASE, J.)

(SMT. VIBHA KANKANWADI, J.)

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