

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

CRIMINAL APPLICATION NO.2314 OF 2023
IN REVN/184/2023 WITH REVN/184/2023

1. Sominath Uttam Mhaske,
Age : 35 Years, Occ. Agriculture,
2. Balu S/o Namdeo Mhaske,
Age : 31 Years, Occ. Agriculture,
3. Shankar Bhimrao Mhaske,
Age : 45 Years, Occ. Agriculture,
4. Uttam S/o Bhimrao Mhaske,
Age : 65 Years, Occ. Agriculture
5. Vilas Namdeo Mhaske,
Age : 36 Years, Occ. Agriculture

All resident of Hatmali, Taluka and
District Aurangabad.

... Applicants

VERSUS

The State of Maharashtra

.. Respondent

....

Advocate for Applicant : Mr. Shaikh Sohail Subhedar
APP for Respondent: Mr. K. S. Patil

....

CORAM : S. G. MEHARE, J.

DATE : 07.07.2023

PER COURT :

1. Heard the learned counsel for the applicants and learned counsel for the respondent/State.
2. The applicants are seeking suspension of sentence imposed upon

them, to suffer rigorous imprisonment for six months each for the offence punishable under Sections 148, 324 read with Section 149 of the Indian Penal Code by the learned Judicial Magistrate First Class, Aurangabad in R.C.C. No. 1341 of 2013 dated 27.09.2018 and confirmed by the learned Additional Sessions Judge, Aurangabad in Criminal Appeal No. 177 of 2018 dated 26.06.2023.

3. The learned counsel for the applicants would submit that the applicants have a good case on merits. The evidence has not been appreciated as per the prescribed procedure of law. They are permanent resident of village Hatmali taluka and district Aurangabad. There are no antecedents to their discredit. The revision may takes its time. It is a short term conviction; hence, sentence may be suspended.

4. The learned A.P.P. strongly opposed the application. He would argue that there are two concurrent judgments and orders of the conviction against the applicants. The evidence has been correctly appreciated. The prosecution has proved the case beyond a reasonable doubt. Therefore, applicants have no good case for suspension of sentence.

5. Perused the impugned judgment and orders. The applicants appears to have good grounds to be argued before this Court in

revision. Hence, the following order.

ORDER

- (i) The application is allowed.
- (ii) The execution, implementation, effect and operation of the sentence to suffer R.I. for six months each for the offences punishable under Sections 148, 324 read with Section 149 of the Indian Penal Code by the learned Judicial Magistrate F.C. Aurangabad in Regular Criminal Case No. 1341 of 2013 dated 27.09.2018 and confirmed by the learned Additional Sessions Judge, Aurangabad in Criminal Appeal No. 177 of 2018 dated 26.06.2023 has been suspended till 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.
- (iv) Bail before the learned Additional Sessions Judge, Aurangabad.

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