

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

**906 CRIMINAL APPLICATION NO.4043 OF 2023
IN APEAL/1064/2023**

**JAGANNATH RAGHUNATH BARDE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA**

...
Mr. N.B. Narwade, Advocate for the applicants.
Mrs.D.S. Jape, A.P.P. for the respondent – State.
...

CORAM : SANDIPKUMAR C. MORE, J.

DATED : 4th November 2023.

ORDER:-

1. Heard. Issue notice to respondent. Learned A.P.P. waives service for respondent State.
2. Heard rival submissions.
3. The applicants, who are original accused Nos.1 and 2, are seeking suspension of their substantive sentence of imprisonment for the offences punishable under Sections 379, 353, 143, 147, 149, 427, 323 and 506 read with 149 of the Indian Penal Code in Sessions Case No. 161/2015. The maximum punishment of imprisonment imposed upon the applicants appears to be of 2 years.
4. The learned A.P.P. strongly opposed the application on the ground that the applicants / accused had in fact tried to kill a public servant who obstructed them from committing theft of sand.
5. However, it appears that the present applicant / accused are already released on bail after the conviction vide order dated 17.10.2023 passed by the learned trial Court. Moreover,

they have also deposited the fine amount. As such, considering the short period of sentence of imprisonment, following order is passed

ORDER

- (i) The application is hereby allowed and substantive sentence of imprisonment imposed upon the applicants for the offences punishable under Sections 379, 353, 143, 147, 149, 427, 323 and 506 r/w 149 of the Indian Penal Code in Sessions Case No. 161/2015 under judgment and order dated 17.10.2023, is hereby suspended during the pendency of this appeal.
- (ii) Applicants be released on bail on execution of their P.R. bond of Rs. 25,000/- each with one or more solvent sureties in the like amount.
- (iii) Bail in lower Court.
- (iv) Application is accordingly disposed of.

(SANDIPKUMAR C. MORE, J.)