



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

**CRIMINAL APPLICATION NO.4385 OF 2023
IN REVN/361/2023**

1. Fayaz s/o Jilani Bagwan,
Age: 37 Years, Occupation: Labour,
R/a. A-31145, Walmiki Nagar, Jalna,
Taluka & District Jalna.
2. Ayyaz s/o Jilani Bagwan,
Age: 42 Years, Occupation: Labour,
R/o. Walmiki Nagar, Jalna,
Taluka & District Jalna.
3. Riyaz s/o Jilani Bagwan,
Age: 37 Years, Occupation: Labour,
R/o. Walmiki Nagar, Jalna,
Taluka & District Jalna.

..Applicants

Versus

The State of Maharashtra
Through D.G.P., Jalna.

..Respondent

...

Mr. N. S. Shah, Advocate for the Applicants.
Mr. A. S. Shinde, APP for Respondents-State.

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CORAM : S. G. CHAPALGAONKAR, J.
DATED : 07th DECEMBER, 2023.

PER COURT:-

1. Mr. Shah, learned Advocate appearing for the applicant submits that the applicants were subjected to prosecution in Regular Criminal Case No.161/2013 before the Judicial Magistrate First Class, Court No.1, Jalna for the offences punishable under Sections 143, 147, 148, 149, 452, 324, 323, 504, 506 of the Indian Penal Code, 1860, Section 4 r/w Section 25 of the Arms Act, 1959 and Section 135 of the Bombay Police Act, 1951. On conclusion of the trial, the applicants have been convicted for the offences punishable under Sections 323, 324, 504, 452 r/w 34

of the Indian Penal Code and sentenced to suffer imprisonment for three months with fine. The judgment of the Trial Court was subjected to challenge in Appeal before the Additional Sessions Judge at Jalna. The Appeal came to be partly allowed, thereby setting aside conviction of applicant no.2 for offences punishable under Section 4 r/w 25 of the Arms Act, 1959. However, conviction and sentence for the offences punishable under Sections 323, 324, 452 and 506(ii) r/w 34 of the Indian Penal Code has been maintained. He would submit that the Courts below have failed to appreciate the evidence on record in its proper perspective, so also defences raised on behalf of the applicant/accused persons is ignored. By inviting attention of this Court to the grounds raised in Revision Application, he submits that matter requires consideration after calling Record and Proceedings.

2. The learned APP however strongly opposes the prayer for grant of bail. He would submit that both the Courts have concurrently held the applicants guilty for the offences stated above.

3. Having considered submissions advanced and after going through the reasoning adopted by the Courts below, it appears that there are arguable grounds which require consideration in this Revision Application. Similarly, there is no whisper regarding consideration of benefit under the provisions of Probation of Offenders Act. In that view of the matter, case is made out for grant of interim bail till further orders. Hence, the following order:

ORDER

(i) The Criminal Application is allowed.

(ii) Pending hearing and final disposal of the Revision Application, the substantive sentence imposed by the Judicial Magistrate First Class, Court No.1, Jalna in Regular Criminal Case No.161/2013 dated 30.12.2019 and confirmed by the learned Additional Sessions Judge at Jalna in Criminal Appeal No.07/2020 dated 30.11.2023 is hereby suspended till further orders.

(iii) Meanwhile, the applicants, Fayaz s/o Jilani Bagwan, Ayyaz s/o Jilani Bagwan and Riyaz s/o Jilani Bagwan be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rs.Fifty Thousand only) each with one solvent surety of the like amount.

(iv) Bail before the Trial Court.

(v) The Criminal Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE