

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

**947 CRIMINAL APPLICATION NO. 4533 OF 2023
IN REVN/377/2023**

KISHOR NIVRUTTI LOKHANDE AND OTHERS

....Applicant

VERSUS

THE STATE OF MAHARASHTRA

.....Respondent

.....

Advocate for Applicant : Ms. A.A. Lomte h/f Mr. S.J. Salunke
APP for Respondents: Mrs. P.J.Bharad

...

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 19.12.2023.

PER COURT :

1. Heard the learned Advocate appearing for the applicants. She would submit that the applicants were prosecuted before the Judicial Magistrate First Class, Beed, in RCC No. 572 of 2016, for the offences punishable under Sections 143, 148, 326, 504 and 506 read with Section 149 of the Indian Penal Code. On conclusion of trial the learned Magistrate was pleased to acquit the applicants vide judgment and order dated 03.03.2016.

2. Aggrieved by the acquittal of the applicants, the State of Maharashtra preferred a Criminal Appeal bearing No.

106 of 2017 before the Sessions Court, at Beed. The learned Additional Sessions Judge vide order dated 16.12.2023 allowed the appeal and convicted the applicants for the offences punishable under Sections 326 and 506 (ii) read with Section 34 of the I.P.C. and sentenced to suffer imprisonment for a period of 2 years each for the offence punishable under Section 326 and imprisonment for a period of 6 months for the offence punishable under Section 506 (ii) of the I.P.C. She would submit that in pursuance of aforesaid order of the learned Sessions Court, the applicants have surrendered before the Court of Sessions and they are now behind the bar.

3. By inviting the attention of this Court to the reasoning adopted by the Sessions Court, she would submit that there were no grounds to reverse the judgment and order of acquittal passed by the trial Court. She would further point out that the applicants were on bail during the trial. Thereafter, they were acquitted. As such, she urges to release the applicants on bail.

4. The learned APP supports the order of Sessions Court and submits that the conviction of the applicants is based on material placed before the Court during the trial.

5. Having considered the submissions advanced, it is apparent that the applicants were acquitted by the trial Court and the order of the acquittal has been reversed in appeal. Therefore, it is necessary to examine the grounds of challenge in this revision, after calling record and proceedings. Hence the order :

ORDER

- 1) The application is allowed.
- 2) Pending hearing and final disposal of Criminal Revision application, the substantive sentence imposed by the order of Sessions Court in Criminal Appeal No. 106 of 2017 for the offences punishable under Sections 326 and 506 (ii) of I.P.C. is hereby suspended till further orders.
3. Meanwhile, the applicants be released on bail, on their furnishing P.B. and S.B. of Rs. 50,000/- (Rs. Fifty Thousand) each.
4. Bail before the trial Court.

(S.G. CHAPALGAONKAR)
JUDGE